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APPLICATION OF MONARCH  
UTILITIES I, L.P. FOR AUTHORITY TO  
CHANGE RATES

§  
§  
§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS



DIRECT TESTIMONY OF EMILY SEARS  
RATE REGULATION DIVISION  
PUBLIC UTILITY COMMISSION OF TEXAS  
OCTOBER 27, 2020

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1 **I. INTRODUCTION OF WITNESS**

2 **Q. Please state your name and business address.**

3 A. Ms. Emily Sears, Public Utility Commission of Texas, 1701 N. Congress Avenue, Austin,  
4 Texas 78711-3326.

5  
6 **Q. By whom are you currently employed and in what capacity?**

7 A. I have been employed by the Public Utility Commission of Texas (Commission) since  
8 January 1, 2015. I am a Financial Analyst in the Rate Regulation Division.

9  
10 **Q. What are your principal responsibilities at the Commission?**

11 A. My principal responsibilities at the Commission include reviewing tariff and rate change  
12 applications and appeals. I am also responsible for preparing testimony and exhibits for  
13 contested case matters involving investor-owned, non-profit, and governmental water and  
14 sewer retail public utilities and wholesale matters as well as participating in settlement  
15 negotiations.

16  
17 **Q. Please state your educational background and professional experience.**

18 A. I have provided a summary of my educational background and professional experience in  
19 Attachment ES-1 to my direct testimony.

20  
21 **Q. Have you previously testified before this Commission or the State Office of  
22 Administrative Hearings (SOAH)?**

23 A. Yes. I have also testified before the Pennsylvania Public Utility Commission. Attachment  
24 ES-2 provides a summary of the cases in which I have testified or submitted testimony.

25

1 **II. PURPOSE AND SCOPE OF TESTIMONY**

2 **Q. What is the purpose of your testimony in this proceeding?**

3 A. The purpose of my testimony is to present a recommendation for the rate of return (ROR)  
4 and accumulated deferred federal income taxes (ADFIT) for Monarch Utilities I, L.P.  
5 (Monarch or Company). More specifically, I address the issues of Monarch's capital  
6 structure, cost of debt, cost of equity, overall rate of return, ADFIT and excess ADFIT.  
7

8 **Q. What is the scope of your review?**

9 A. I reviewed the Company's application including pre-filed direct testimony and the  
10 Company's responses to Requests for Information (RFI).  
11

12 **Q. If you do not address an issue or position in your testimony, should that be interpreted  
13 as Staff supporting Monarch's position on that issue?**

14 A. No.  
15

16 **Q. What standards did you apply in addressing the reasonableness of Monarch's  
17 requested return?**

18 A. I applied the following standards:

19 • 16 TAC § 24.31(c)(1), which states:

20 The Commission shall allow each utility a reasonable opportunity to  
21 earn a reasonable rate of return...and shall fix the rate of return in  
22 accordance with the following principles. The return should be  
23 reasonably sufficient to assure confidence in the financial soundness of  
24 the utility and should be adequate, under efficient and economical  
25 management, to maintain and support its credit and enable it to raise the  
26 money necessary for the proper discharge of its public duties.

- 1           • Two decisions of the U.S. Supreme Court:

2                   (1) *Bluefield Water Works & Improvement Co. v. Public Service*  
3                   Commission of West Virginia (*Bluefield*);<sup>1</sup> and

4                   (2) *Federal Power Commission v. Hope Natural Gas Co. (Hope)*.<sup>2</sup>

5  
6 **III. ADFIT**

7 **Q. Please define the term “ADFIT.”**

8 A. ADFIT stands for accumulated deferred federal income taxes. ADFIT represents the  
9 accumulated balance of federal income taxes whose payment has been deferred because of  
10 timing differences related to when a company receives revenues for the tax-related amounts  
11 in its cost of service and when the company subsequently pays these funds to the government.  
12 The most common example of how such a timing difference arises is when a company uses  
13 straight-line depreciation for setting rates but uses accelerated depreciation for tax purposes.  
14 Until the company pays these funds to the government, it has use of the funds. ADFIT is  
15 therefore considered a source of interest-free funds to the utility (i.e., it is cost-free capital)  
16 and thus deducted from the utility’s rate base.

17  
18 **Q. What did Monarch claim for ADFIT?**

19 A. Monarch’s ADFIT claim was \$831,540 collectively for both water and sewer. Monarch  
20 also claimed an excess ADFIT amount of \$407,802 collectively for both water and sewer.<sup>3</sup>

21  
22 **Q. What is excess ADFIT?**

23 A. Excess ADFIT is the balance of ADFIT that a company collected based on the prior federal  
24 income tax rate of 34% that is in excess of the amount related to the new 21% federal income

---

<sup>1</sup> *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679, 683 (1923).

<sup>2</sup> *Fed. Power Comm’n v. Hope Nat. Gas Co.*, 320 U.S. 591, 604 (1944).

<sup>3</sup> Application at 000846, Direct Testimony of Brian Bahr, Schedule II-B (July 15, 2020) (Bahr Direct).

1 tax rate resulting from the Tax Cuts and Jobs Act (TCJA). The appropriate treatment for  
2 these excess balances is for the company to refund such amounts to customers.  
3

4 **Q. Did Monarch adjust its claimed amount?**

5 A. I am not aware of an official adjustment to the cost of service; however, in response to Staff's  
6 RFI 3-6, Monarch claimed it had made an error, and reduced the depreciation used to  
7 calculate ADFIT from \$590,760<sup>4</sup> to \$131,092.<sup>5</sup>  
8

9 **Q. Do you agree with Monarch's ADFIT claim?**

10 A. No. As shown in response to Staff's Third Set of RFIs, Monarch admits that it used  
11 accelerated depreciation on its taxes and straight-line depreciation in setting rates, and that it  
12 therefore has an ADFIT balance.<sup>6</sup> However, there are issues with Monarch's ADFIT  
13 calculations in this proceeding.  
14

15 **Q. Please explain Staff's observations regarding Monarch's ADFIT calculations.**

16 A. First, the original cost numbers between Monarch's schedules do not match. Schedule II-B  
17 shows a combined total original cost of utility plant of \$180,936,554. Schedule II-E-3.3  
18 shows a total original cost of utility plant for tax purposes of \$37,694,911. This means that  
19 ADFIT and Excess ADFIT were not calculated on \$143,241,643 of utility plant, even though  
20 Monarch has been collecting rates using straight-line depreciation and paying taxes using  
21 accelerated depreciation, which creates the ADFIT liability.

22 Second, it appears that Monarch is not claiming an ADFIT balance prior to its last

---

<sup>4</sup> Application at 001056, Direct Testimony of Victoria R. Shupak, Schedule II-E-3.5 (July 15, 2020) (Shupak Direct).

<sup>5</sup> Monarch's Response to Commission Staff's Third RFI at 8 (Oct. 7, 2020).

<sup>6</sup> *Id.* at 5.

1 rate case in 2015. However, Monarch is not claiming that it began using accelerated  
2 depreciation in its last rate case. Therefore, I believe the ADFIT and Excess ADFIT  
3 amounts claimed by Monarch are understated.

4 Third, on its supporting schedule in response to Staff RFI 3-6, the total original cost  
5 of Monarch's assets for book purposes is \$33,795,000, while the total original cost of  
6 Monarch's assets for tax purposes is \$35,876,410. Monarch did not give an explanation for  
7 this difference in the original cost of its assets. An example is line 1 of the schedule, where  
8 the book cost of the well pump is \$3,495, while the tax cost of the same well pump is \$3,053.  
9 Monarch provided no explanation for why the tax cost of the asset is \$442 less than the same  
10 asset's book value.

11 Fourth, it appears that there are some assets that have no book value but have a tax  
12 value and are used in the ADFIT calculation.<sup>7</sup> If there is not an asset recorded for the book  
13 value, then it should not be included in the ADFIT calculation because it is not a difference  
14 between straight-line depreciation and accelerated depreciation for the assets in this case.

15 Finally, it appears that there are negative plant amounts for contributions in aid of  
16 construction (CIAC) assets, without explanation by Monarch. While the TCJA did change  
17 the treatment of CIAC for tax purposes, including CIAC assets or tax amounts in the  
18 calculation of ADFIT is not appropriate. While the Commission has not expressly stated an  
19 opinion on the treatment of the taxes on CIAC amounts, such amounts are not an asset whose  
20 depreciation expense for the determination of rates is different from its depreciation expense  
21 for the determination of taxes. Also, CIAC amounts are not included in rate base, and  
22 therefore, CIAC amounts are not included in the tax calculation used to set rates. Therefore,  
23 the direct calculation of ADFIT should not include CIAC amounts.

---

<sup>7</sup> Monarch's Response to Commission Staff's Third RFI, Attachment Staff 3-6 at 1-60 (Oct. 7, 2020).



1 **Q. What is your recommendation for ADFIT?**

2 A. My recommendation is for Monarch to recalculate its ADFIT and Excess ADFIT in the  
3 following manner:

4 a) use all plant including plant prior to 2015;

5 b) remove items that are not included as assets in this case;

6 c) use the same book and tax costs unless there is an appropriate explanation; and

7 d) remove CIAC from the ADFIT calculation.

8

9 **IV. RATE OF RETURN**

10 **Q. Please define the term “rate of return.”**

11 A. Rate of return generally is the amount of revenue an investment generates (in the form of  
12 operating income) expressed as a percentage of the amount of capital invested, over a given  
13 period of time. Rate of return is one of the components of the revenue requirement formula.

14

15 **Q. What is the revenue requirement formula?**

16 A. The revenue requirement formula used in base rate cases is as follows:

17  $RR = E + D + T + (RB \times ROR)$

18 Where:

19 RR = Revenue Requirement

20 E = Operating Expense

21 D = Depreciation Expense

22 T = Taxes

23 RB = Rate Base

24 ROR = Overall Rate of Return

25 In the above formula the rate of return is expressed as a percentage. The calculation of the

1 ROR is independent of the determination of the appropriate rate base value for ratemaking  
2 purposes. As such, the appropriate total dollar return (RB x ROR) is dependent upon the  
3 proper computation of the rate of return and the proper valuation of the utility's rate base.  
4

5 **Q. What constitutes a fair and reasonable overall rate of return?**

6 A. A fair and reasonable overall rate of return is one that will allow the utility the opportunity  
7 to recover those costs prudently incurred by all classes of capital used to finance the rate base  
8 during the prospective period in which its rates will be in effect.

9 *Bluefield*<sup>8</sup> and *Hope*<sup>9</sup> set forth the principles that are generally accepted by regulators  
10 throughout the country as the appropriate criteria for measuring a fair rate of return:

- 11 1) A utility is entitled to a return similar to that being earned by other  
12 enterprises with corresponding risks and uncertainties, but not as high as  
13 those earned by highly profitable or speculative ventures;
- 14 2) A utility is entitled to a return level reasonably sufficient to assure  
15 financial soundness;
- 16 3) A utility is entitled to a return sufficient to maintain and support its credit  
17 and raise necessary capital.

18 A fair return can change (increase or decrease) along with economic conditions and capital  
19 markets.  
20

21 **Q. How is the rate of return calculated?**

22 A. The overall rate of return in this rate proceeding is calculated using the weighted average  
23 cost of capital method. To calculate the weighted average cost of capital, the utility's capital

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<sup>8</sup> *Bluefield Water Works* 262 U.S. at 683.

<sup>9</sup> *Hope Nat. Gas Co.*, 320 U.S. at 604.

1 structure must first be determined by calculating, as a percentage of total capital, each  
2 capitalization component that has financed the rate base. The capital components consist of  
3 long-term debt and common equity. Next, the effective cost rate of each capital structure  
4 component must be determined. The cost rate of debt is typically fixed and can be computed  
5 accurately. The cost rate of common equity is not fixed and is more difficult to measure.  
6 Next, each capital structure component percentage is multiplied by its corresponding  
7 effective cost rate to determine the weighted capital component cost rate. Lastly, the sum  
8 of the weighted cost rates produces the overall rate of return. This overall rate of return is  
9 multiplied by the rate base to determine the return portion of the utility's revenue  
10 requirement.

11  
12 **V. COMPANY POSITION**

13 **Q. Please summarize Monarch's rate of return request in this case.**

14 A. Based on the rate application, Monarch requested the following rate of return:<sup>10</sup>

<u>Type of Capital</u>	<u>Ratios</u>	<u>Cost Rate</u>	<u>Weighted Cost Rate</u>
Long-Term Debt	45.00 %	6.26 %	2.82 %
Common Equity	<u>55.00 %</u>	10.00 %	<u>5.50 %</u>
Total	<u>100 %</u>		<u>8.32 %</u>

---

<sup>10</sup> Application at 000584, Direct Testimony of Bruce Fairchild, Schedule BHF-1 (July 15, 2020) (Fairchild Direct).

1 **VI. STAFF RECOMMENDATION**

2 **Q. Please summarize your recommendation in this case.**

3 A. I recommend the following rate of return for Monarch:<sup>11</sup>

<u>Type of Capital</u>	<u>Ratios</u>	<u>Cost Rate</u>	<u>Weighted Cost Rate</u>
Long-Term Debt	46.00 %	6.17 %	2.84 %
Common Equity	<u>54.00 %</u>	8.50 %	<u>4.59 %</u>
Total	<u>100.00 %</u>		<u>7.43 %</u>

4 **VII. BAROMETER (PROXY) GROUP**

5 **Q. What is a barometer group, as used in base rate cases?**

6 A. A barometer group, also called a proxy group, is a group of companies that serves as a  
7 benchmark for determining the subject utility's rate of return in a base rate case.

9 **Q. What are the reasons for using a barometer group?**

10 A. Many public utility companies are not publicly traded, and therefore, lack specific market  
11 data. A barometer group provides that industry specific market data and allows for a more  
12 accurate estimation of the true cost of equity. Furthermore, the water utilities in a barometer  
13 group share common characteristics with regulated water distribution utilities and are well  
14 suited for comparison to utility companies. This comparative method is a standard approach  
15 in utility rate cases.

17 **Q. Are there additional reasons for using a barometer group?**

18 A. Yes. A barometer group is typically utilized because the use of data exclusively from one  
19 company may be less reliable than the use of data from a group of companies. The lower

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<sup>11</sup> Attachment ES-3.

1 reliability occurs because the data for one company may be subject to events that can cause  
2 short-term anomalies in the marketplace's perception of that company. The rate of return  
3 on common equity for a single company could become distorted in these particular  
4 circumstances, and would therefore not be representative of similarly situated companies.  
5 The use of a barometer group has the effect of smoothing out potential anomalies associated  
6 with a single company.

7 Using a barometer group cost of equity as a benchmark also satisfies the long-  
8 established guideline of utility regulation that seeks to provide the subject utility with the  
9 opportunity to earn a return equal to that of similar risk enterprises.  
10

11 **Q. What criteria did you use in selecting your barometer group companies?**

12 A. As I have done in this proceeding, I generally use the following criteria when selecting a  
13 barometer group: 1) 50% or more of the company's revenues must be generated from the  
14 water utility distribution industry; 2) the company's stock must be publicly traded; 3)  
15 investment information for the company must be available from more than one source; and  
16 4) the company must not be currently involved or targeted in an announced merger or  
17 acquisition.  
18

19 **Q. What criteria did Mr. Bruce Fairchild use in selecting his barometer group companies?**

20 A. Mr. Fairchild uses the publicly traded water and wastewater utilities included in *The Value*  
21 *Line Investment Survey's* "Water Utility Industry."  
22

23 **Q. What barometer group did you use in your analysis?**

24 A. I selected American States Water Company, American Water Works, California Water  
25 Service Group, Essential Utilities, Middlesex Water, SJW Group, and York Water.  
26

1 **Q. What barometer group did Mr. Fairchild use in his analysis?**

2 A. Mr. Fairchild uses the same group of companies.

3

4 **VIII. CAPITAL STRUCTURE**

5 **Q. What does capital structure represent in a rate case?**

6 A. Capital structure represents the financing of long-term assets (rate base). The primary forms  
7 of financing employed by public utilities include debt and common equity.

8

9 **Q. What is Monarch's claimed capital structure?**

10 A. Monarch is claiming a hypothetical capital structure of 45% debt and 55% equity.

11

12 **Q. What is the basis for Monarch's claimed capital structure?**

13 A. Mr. Fairchild testifies that Monarch's actual capital structure at the end of December 31,  
14 2019 is 22.30% debt and 77.70% equity. Mr. Fairchild states that Monarch's actual debt  
15 percentage is well below, and the equity percentage well above, industry benchmarks. He  
16 also states that this actual capital structure does not comport with industry standards.  
17 Therefore, Mr. Fairchild uses the capital structure ratios of the firms in his proxy group at  
18 year-end 2017 and 2018.<sup>12</sup>

19

20 **Q. What is your recommendation regarding Monarch's capital structure?**

21 A. I recommend using a hypothetical capital structure of 46% debt and 54% equity.

22

23 **Q. What is the basis for your recommendation to use a hypothetical capital structure?**

24 A. A capital structure should be representative of the industry norm and reflect an efficient use  
25 of capital. The use of a capital structure that is outside the range of the industry's capital

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<sup>12</sup> Application at 000537 - 000538, Fairchild Direct at 17-18.

1 structure may result in an overstated overall rate of return.

2 The current five-year average capital structure of the barometer group is 45.9% debt  
3 and 54.1% equity. I rounded to 46% debt and 54% equity, to use for ratemaking purposes.<sup>13</sup>  
4

5 **IX. COST RATE OF LONG-TERM DEBT**

6 **Q. What is Monarch's claimed cost rate of long-term debt?**

7 A. Monarch claimed an actual weighted cost of debt of 6.26%, as adjusted for net proceeds.  
8

9 **Q. What are net proceeds?**

10 A. Net proceeds can be defined as the amount of money received from a loan after subtracting  
11 transaction costs.  
12

13 **Q. What is your recommendation regarding Monarch's cost rate of long-term debt?**

14 A. I recommend using Monarch's actual weighted cost of debt, unadjusted for net proceeds, of  
15 6.17%.  
16

17 **Q. What is the basis for your recommendation?**

18 A. Given that Monarch's hypothetical capital structure includes more debt than its actual capital  
19 structure, the higher amount of synchronized interest expense subsumes any differences for  
20 net proceeds.

21 For example, the interest expense as calculated by Mr. Fairchild using Monarch's  
22 issuances is \$1,389,000.<sup>14</sup> The synchronized interest expense as calculated by my  
23 recommended return is \$2,985,584.<sup>15</sup> Therefore, using my recommended return, unadjusted

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<sup>13</sup> Attachment ES-4 at 2.

<sup>14</sup> Application at 000537 - 000538, Fairchild Direct, Schedule BHF-3.

<sup>15</sup> Attachment ES-3 at 2.

1 for net proceeds, still allows Monarch to recover its interest expense.

2  
3 **X. EQUITY ANALYSIS**

4 **Q. What is your recommendation for the appropriate cost of common equity in this**  
5 **proceeding?**

6 A. Based upon my analysis, I recommend a cost of common equity of 8.50%.

7  
8 **Q. What is the basis for your recommendation?**

9 A. I arrived at this return on equity (ROE) primarily on the basis of the results of my single-  
10 stage Discounted Cash Flow (DCF) method. I also used a multi-stage DCF and a Risk  
11 Premium method as comparisons to my DCF results. I further discuss each of these methods  
12 below.

13  
14 **A. DISCOUNTED CASH FLOW (DCF)**

15 **Q. What is the theoretical basis for the DCF method?**

16 A. The theoretical basis for the DCF model is the “dividend discount model” of financial theory,  
17 which maintains that the value (price) of any security or commodity is the discounted present  
18 value of all future cash flows. The DCF model assumes that investors evaluate stocks in the  
19 classical economic framework, which maintains that the value of a financial asset is  
20 determined by its earning power, or its ability to generate future cash flows. The constant-  
21 growth DCF model recognizes that the return to the stockholder consists of two parts:  
22 dividend yield and growth. Therefore, equity investors expect to receive a portion of their  
23 total required return in the form of current dividends and the remainder through price  
24 appreciation.



1 **Q. Please explain your constant-growth DCF analysis.**

2 A. My analysis employs the standard discrete DCF model as expressed in the following formula:

3 
$$k = D_1/P_0 + g$$

4 Where:

5  $k$  = Cost of equity

6  $D_1$  = Dividend expected during the year

7  $P_0$  = Current price of the stock

8  $g$  = Expected growth rate of dividends

9 When a forecast of  $D_1$  is not available, it is appropriate to make an adjustment to  $D_0$  (the  
10 current dividend) to account for changes in the dividend paid in period 1. In this case, I  
11 have used a forecast of  $D_1$  by adjusting  $D_0$  by the growth rate in the quarter the dividend has  
12 been historically increased.<sup>16</sup>

13  
14 **Q. Are there variations of the constant-growth DCF model?**

15 A. Yes. For conditions in which significantly different growth rates are expected over different  
16 periods of time, analysts often employ a multistage version of the DCF model. For example,  
17 the expected near-term growth of a given company may be significantly higher or lower than  
18 the expected sustainable growth rate. In these situations, it is appropriate to apply a  
19 multistage DCF model that incorporates the various growth rates expected over time.

20 Under the multistage DCF, in order to incorporate two or more growth-rate periods  
21 the equation for the constant growth DCF is simply expanded, with the assumption that a  
22 permanent constant growth rate can be estimated for some point in the future:

---

<sup>16</sup> Attachment ES-6.

1

$$P_0 = \frac{D_0(1+g_1)}{(1+k)^1} + \frac{D_1(1+g_2)}{(1+k)^2} + \dots + \frac{D_{(n-1)}(1+g_n)}{(1+k)^n}$$

2 where the variables are the same as in the equation in the previous question-and-answer, but  
3 there are more subscripts to indicate the different time periods to which the variables apply—  
4 e.g.,  $g_1$  represents the growth rate for the first period,  $D_2$  represents the dividend rate for the  
5 second period,  $g_2$  represents the growth rate for the second period, and so on. The “ $n$ ”  
6 subscript represents the number of periods to be included (up to infinity).

7  
8 **Q. What versions of the DCF model did you use in your analysis?**

9 A. I used both a single-stage version and a multistage version of the DCF model. In the single-  
10 stage version, the stock’s dividend growth is based on analysts’ estimates of the utility’s  
11 earnings growth over the next five years. In the multistage version of the DCF model, I  
12 used a three-stage growth approach. The first stage spans the next five years and uses the  
13 same growth estimates employed in the single-stage version. The second stage, which  
14 covers years six through ten, is based on an average of the growth rate used in years one  
15 through five and the projected long-term growth in Gross Domestic Product (“GDP”) of  
16 5.18%, discussed in more detail below. The third, and final, stage covers years 11 through  
17 150, and is based upon the GDP growth rate of 5.18%.

18  
19 **Q. Why did you use two versions of the DCF model?**

20 A. I used two versions of the DCF model because each model is reasonable in its own right and  
21 therefore likely to be used by investors. I included the multi-stage growth model because  
22 the utility cannot outgrow the economy long-term. My intent, by considering both

1 approaches and blending the two, was to more closely approximate the long-term  
2 expectations of investors on average.  
3

4 **Q. What prices did you use for your DCF analyses?**

5 A. As shown on Attachment ES-5, I used stock prices that are an average of weekly prices over  
6 a recent 12-week period, specifically July 20, 2020 through October 5, 2020. I consider the  
7 12-week period long enough to smooth out stock market fluctuations and accurately reflect  
8 long-term expectations, but short enough to reflect the most current information on the  
9 market's perceptions of risk, earnings growth, and dividend growth.  
10

11 **Q. What estimates for the growth expectations of investors did you use in your DCF**  
12 **analyses?**

13 A. I used data from Value Line, Zacks, and Yahoo!Finance for the earnings growth rates in the  
14 single-stage DCF model and the first stage and second stage of the multistage DCF model.

15 For the second stage, in part, and the third stage of the multistage DCF model, I used  
16 an expected long-run nominal growth rate of 5.18%, consisting of the 3.18% per year average  
17 real growth-rate of GDP for the period 1951 through 2019 as calculated from data reported  
18 by the U.S. Bureau of Economic Analysis,<sup>17</sup> and the 2.00% rate of inflation forecast by the  
19 Board of Governors of the Federal Reserve System in its most recent estimate.<sup>18</sup> This is  
20 widely disseminated information that is generally considered credible by investors.

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<sup>17</sup> U.S. Bureau of Economic Analysis, Real Gross Domestic Product [A191RL1Q225SBEA], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/A191RL1Q225SBEA>, October 12, 2020.

<sup>18</sup> *Monetary Policy Report* submitted to Congress on June 12, 2020, pursuant to section 2B of the Federal Reserve Act.

1 **Q. What are the results of your DCF analyses?**

2 A. Attachments ES-7 and ES-8 to my testimony include the results and supporting calculation  
3 detail from the single-stage and multi-stage DCF, respectively. The average of the  
4 barometer group's estimated cost of equity using the single-stage DCF yields a cost of equity  
5 of 8.47%. An average of the barometer group's results when employing the multi-stage  
6 DCF yields a cost-of-equity estimate of 6.97%.

7  
8 **Q. Why did you exclude the results from SJW Group from your analysis?**

9 A. As shown in Attachment ES-7, SJW's DCF result was outside of two standard deviations  
10 from the mean. This means it was too far outside the other results to be considered  
11 reasonable. Therefore, I excluded it from my results.

12

13 **B. CONVENTIONAL RISK-PREMIUM ESTIMATE**

14 **Q. What is the theoretical basis for the Risk-Premium Method?**

15 A. The Risk-Premium method is based on the concept that common stocks are riskier than debt  
16 and, as a result, investors require a higher expected return on stocks than bonds.

17

18 **Q. Please describe the "conventional" risk-premium approach that you used in your  
19 estimate of cost of equity in this case.**

20 A. I refer to the risk-premium approach I use as the "conventional" risk premium to distinguish  
21 it from the concept of risk premiums in general. The conventional risk premium is a risk  
22 premium that estimates the cost of equity for Monarch by comparing the costs of equity  
23 authorized for water utilities across the United States to the yields of public utility bonds  
24 rated Baa by Moody's. The timeframe I have used for this purpose is 2007 through 2019.

25

1 **Q. How did you use the relationship between the authorized costs of equity and the bond**  
2 **yields to quantify the cost of equity for Monarch?**

3 A. I quantified the relationship by subtracting the bond yields from the authorized costs of  
4 equity to determine a risk premium for the riskier equity.  
5

6 **Q. Did you test the data for correlation?**

7 A. Yes. I performed a regression analysis to analyze the relationship between the risk premium  
8 and the bond yields in the corresponding period. The regression analysis showed, with high  
9 confidence, that there is a trend in the relationship. It is an inverse trend, in which the risk  
10 premiums increase as bond yields decrease. On average, during the 2007 through 2019 time  
11 period, risk premiums increased 0.7544% for every 1.00% that bond yields decreased.  
12

13 **Q. What are the results of your risk-premium analysis?**

14 A. As shown on Attachment ES-9, Page 2, the conventional risk-premium analysis implied a  
15 cost of equity of 9.38%.  
16

17 **Q. Do you directly rely on your risk premium results?**

18 A. No, my risk premium result is not directly included in my results. This is due to several  
19 factors. Primarily, the allowed ROEs in the regulated community do not fall as quickly as  
20 interest rates do. The allowed ROEs lag and do not reflect current market conditions. I do  
21 use it as a comparison for my results.

1 **XI. SIZE**

2 **Q. What is Mr. Fairchild's size adjustment?**

3 A. Mr. Fairchild makes a 44 basis point adjustment to his DCF and a 159 basis point adjustment  
4 to his CAPM because he believes that investors require a higher return on equity from smaller  
5 firms than from larger firms, all else equal.<sup>19</sup>  
6

7 **Q. What comments do you have regarding Mr. Fairchild's size adjustment?**

8 A. First, Mr. Fairchild's size adjustment goes against recent Commission precedent. In Docket  
9 No. 46245, the Commission rejected the utility's requested ROE, which included a small  
10 size risk premium.<sup>20</sup> The utility in that case operated two water systems serving two  
11 different subdivisions for a total of 927 water customers, which is significantly less than the  
12 approximately 30,000 customers served by Monarch.<sup>21</sup>

13 Second, although the scale of operations for water utility distribution systems can  
14 vary, the basic nature of a water utility's business does not change with respect to scale. A  
15 water utility's core business is to provide water to its customers, regardless of size.  
16 Therefore, it must construct and maintain its distribution system, provide administrative  
17 functions, treat the water, etc. This business model remains essentially the same for any  
18 size utility, along with the fact that water utilities operate as monopolies with a captive  
19 customer base in the areas they serve.

20 Third, water utilities are regulated, and the utility's earnings are set, by the  
21 ratemaking process. This is true regardless of the utility's size. The utilities are also  
22 subject to regulatory oversight.

---

<sup>19</sup> Application at 000554, 000559; Fairchild Direct at 33, 38.

<sup>20</sup> *Application of Double Diamond Utility Co., Inc. for a Rate/Tariff Change*, Docket No. 46245, Order on Rehearing at 0000061 (December 12, 2019).

<sup>21</sup> *Id.* at 0000038.

1 Fourth, while Mr. Fairchild testifies that financial literature shows that investors  
2 require a higher return from smaller firms, this financial literature is not specific to the utility  
3 industry. There are, however, articles examining the size premium in the utility industry  
4 specifically. Wallace Davidson states:

5 [O]ur results suggest that neither large nor small utilities merit a premium  
6 because of their size. The implications of our findings for regulatory  
7 officials for regulatory accounting standard-setters are straightforward: we  
8 find no evidence among the electric utility industry...to suggest that a  
9 utility's cost of capital or its allowable ARR should be adjusted to reflect  
10 firm size.<sup>22</sup>

11 In research also specific to public utilities, Professor Annie Wong states:

12 [G]iven firm size, utility stocks are consistently less risky than industrial  
13 stocks. Second, industrial betas tend to decrease with firm size, but utility  
14 betas do not. These findings may be attributed to the fact that all public  
15 utilities operate in an environment with regional monopolistic power and  
16 regulated financial structure. As a result, the business and financial risks  
17 are very similar among the utilities regardless of their size. Therefore,  
18 utility betas would not necessarily be related to firm size.

19 She then concludes:

20 The object of this study is to examine if the size effect exists in the utility  
21 industry. After controlling for equity values, there is some weak evidence  
22 that firm size is a missing factor from the CAPM for industrial but not utility  
23 stocks. This implies that although the size phenomenon has been strongly  
24 documented for industrials, findings suggest that there is no need to adjust  
25 for the firm size in utility regulation.<sup>23</sup>

26 Finally, Monarch receives its capital from its parent company SouthWest Water

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<sup>22</sup> Wallace Davidson III, Kenneth Ferris, and William Reichenstein, A Note on the Relationship Between Firm Size and Return in the Electric Utility Industry, *Journal of Accounting, Auditing, and Finance* Vol. 8, Issue 3 (Summer 1993).

<sup>23</sup> Annie Wong, Utility Stocks and the Size Effect: An Empirical Analysis, *Journal of the Midwest Finance Association* 98 (1993).

1 Company (SouthWest); therefore, it is SouthWest's size that is the appropriate comparison  
2 to that of the barometer group. Specifically, the \$882 million market cap of SouthWest, as  
3 approximated by Mr. Fairchild, is \$297 million larger than the \$575 million market cap of  
4 York Water, a water utility included in the barometer group.<sup>24</sup> SouthWest also once traded  
5 on the National Association of Securities Dealers Automated Quotations (NASDAQ) under  
6 the symbol SWWC. Therefore, SouthWest is similar in size to the barometer group.

7 For all these reasons, I recommend that the Commission reject Mr. Fairchild's size  
8 adjustment and include no size premium in the return calculation in this proceeding.

9  
10 **XII. OTHER COMMENTS**

11 **Q. Do you agree with Mr. Fairchild's use of the Value Line book earnings for ROE as a**  
12 **tool for comparing and recommending an appropriate ROE for Monarch?**

13 A. No. Value Line uses basic accounting principles, whereas for a rate case we use ratemaking  
14 principles. Ratemaking principles include such adjustments as non-recurring items, unusual  
15 items, unnecessary and unreasonable costs, normalizations of certain expenses, and straight-  
16 line depreciation. Therefore, the ROEs listed in Value Line are not equivalent to those that  
17 are set during a rate proceeding and should not be used for comparative purposes to set return  
18 in this proceeding.

19  
20 **Q. Do you agree Monarch needs a higher ROE to reflect the increased risk of investing in**  
21 **common stocks because of the current economy?**<sup>25</sup>

22 A. Not in relation to water utility stocks. The Water Utility Industry report by Value Line  
23 states:

---

<sup>24</sup> Application at 000553, Fairchild Direct at 32.

<sup>25</sup> Application at 000560, Fairchild Direct at 39.



1 Not many industries have the stability of these utilities. Much of this is due  
2 to water being an essential commodity that has very predictable demand.  
3 Whether the economy is booming or in a recession, people are still going to  
4 consume water for their personal needs. So, earning swings in these  
5 companies are much lower than the average business.<sup>26</sup>  
6

7 **Q. Do you agree Monarch needs to have a higher ROE to cost-justify its initial investment**  
8 **and additional capital improvements necessary for acquiring operationally and**  
9 **financially distressed water and wastewater systems in Texas?**<sup>27</sup>

10 A. No. The Commission has recently released rules pertaining to legislation related to the use  
11 of fair market value. This legislation allows a utility to record on its books a “fair market  
12 value” that is different from the net amount of original cost less accumulated depreciation  
13 that would typically get recorded when one utility acquires another utility. The Commission  
14 is also working on rules pertaining to legislation related to a system improvement charge.  
15 This rule will allow a utility to start recovery of plant in between comprehensive rate cases.  
16 These two legislative initiatives reduce Monarch’s regulatory lag on plant and allows it to  
17 recover an amount higher than the original cost on acquired plant. Therefore, there is no  
18 need to further increase Monarch’s ROE given the opportunity for Monarch to avail itself of  
19 the cost-recovery mechanisms resulting from the two new legislations.  
20

21 **Q. Is there available historical information related to the ROEs that the Commission has**  
22 **previously granted to water utilities?**

23 A. Yes. On the Commission’s website, the Rate of Return Report shows a history of cases in  
24 which the Commission has decided the rate of return.<sup>28</sup> Regulatory Research Associates,

---

<sup>26</sup> ES Workpapers at 67.

<sup>27</sup> Application at 000560, Fairchild Direct at 39.

<sup>28</sup> ES Workpapers at 68-70.

1 Inc. also publishes a report for water ROEs, similar to what Mr. Fairchild uses for his Risk  
2 Premium Method.<sup>29</sup>  
3

4 **Q. Do you agree that electric and gas companies are comparable companies to use as a**  
5 **barometer for the water utility industry?**

6 A. No. While I am not aware of any research papers that specifically examine the differences  
7 between the industries, I do not believe they are directly comparable. For instance, the water  
8 industry has more regulations related to the quality of water from several different agencies.  
9 This means that water utilities are more likely to be able to recover plant expenses in rate  
10 cases because they are required to remain compliant with agencies such as the Environmental  
11 Protection Agency and the Texas Commission on Environmental Quality.

12 Also, Mr. Fairchild's RP analysis shows that for every one percent increase or  
13 decrease in interest rates, electric ROEs rise or fall by approximately one-half percent.<sup>30</sup> My  
14 analysis for water companies show that for every one percent, water ROEs rise or fall by  
15 approximately three-fourths of one percent. This shows that the results from a risk premium  
16 method using gas and electric utilities would not be directly comparable to results from using  
17 water utilities.  
18

19 **XIII. SUMMARY**

20 **Q. What is your recommended ROE?**

21 A. I recommend an ROE of 8.50%. As previously stated in my testimony, I arrived at this ROE  
22 primarily on the basis of the results of my single-stage DCF method. I used the results from  
23 my multi-stage DCF and risk premium analyses as points of comparison to my single-stage

---

<sup>29</sup> ES Workpaper at 71-74.

<sup>30</sup> Application at 000563, Fairchild Direct at 42.

1 DCF results. If I had used all three methods with equal weight, the result would have been  
2 an average ROE of 8.27%. If I had used the combined DCF result and the Risk Premium  
3 with equal weight, the result would have been 8.55%. These results show that my  
4 recommended ROE of 8.50% ROE is reasonable.  
5

6 **Q. What is your overall recommended return?**

7 A. I recommend an overall rate of return, to be applied to rate base, of 7.43%.  
8

9 **Q. Does this conclude your direct testimony?**

10 A. Yes. I reserve the right to supplement this testimony during the course of the proceeding if  
11 new evidence becomes available.

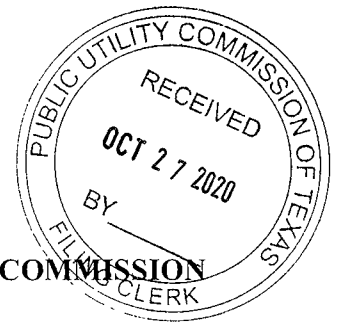


Control Number: 51062



Item Number: 10

Addendum StartPage: 0



**DOCKET NO. 51062**

**PETITION OF THE ELECTRIC  
RELIABILITY COUNCIL OF TEXAS,  
INC. FOR APPROVAL OF  
UNAFFILIATED DIRECTOR**

§  
§  
§  
§

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**COMMISSION STAFF'S CORRECTION TO THE PROPOSED ORDER**

**COMES NOW** the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Correction to the Proposed Order and would show the following:

**I. BACKGROUND**

On September 30, 2020, the Office of Policy and Docket Management issued a Proposed Order to be considered at the open meeting scheduled for November 5, 2020 and directed the parties to file corrections or exceptions to the Proposed Order on or before October 27, 2020. Therefore, this pleading is timely filed.

**II. STAFF'S PROPOSED CORRECTIONS**

Staff proposes the following correction to the Proposed Order:

Modify the first sentence of finding of fact 5 to correct the typo in "NOTICE\_LEGAL\_NOTIFICATIONS listserv."

9. On July 15, 2020, as part of this filing, ERCOT provided notice of the petition by (a) email delivery to the distribution group lists known as ERCOT Board of Directors and Others, Technical Advisory Committee and Others, Retail Market Subcommittee, Wholesale Market Subcommittee, Reliability and Operations Subcommittee, and Protocol Revisions Subcommittee; (b) posting the petition on ERCOT's public website; and (c) issuing a Market Notice to the ~~NOTICE\_LEGAL\_NOTIFICATIONS~~ ~~NOTICE\_LEGAL\_NOTIFICATION~~ listserv.

**III. CONCLUSION**

Staff respectfully requests that the Commission adopt the correction proposed above.

10

Dated: October 27, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Rashmin J. Asher  
Managing Attorney

/s/ Kourtnee Jinks

Kourtnee Jinks  
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**DOCKET NO. 51062**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 27, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Kourtnee Jinks

Kourtnee Jinks



Control Number: 50545



Item Number: 142

Addendum StartPage: 0



SOAH DOCKET NO. 473-20-3472  
DOCKET NO. 50545

APPLICATION OF AEP TEXAS INC. §  
TO AMEND ITS CERTIFICATE OF §  
CONVENIENCE AND NECESSITY §  
FOR THE BRACKETTVILLE- TO- §  
ESCONDIDO 138-KV §  
TRANSMISSION LINE IN KINNEY §  
AND MAVERICK COUNTIES §

BEFORE THE  
  
STATE OFFICE OF  
  
ADMINISTRATIVE HEARINGS

**WITHDRAWAL OF THE DIRECT TESTIMONY OF RYAN SEIDERS**

RYAN SEIDERS hereby withdraws the Direct Testimony of Ryan Seiders, which was filed by on August 3, 2020, and identified as Document No. 103. Mr. Seiders' testimony adopted the timely-filed Direct Testimony of Scott Krueger on behalf of Intervenor PALOMA ICE, LLC.

Intervenor PALOMA ICE, LLC intends to present Mr. Krueger as a witness for trial unless cross examination of him is waived. PALOMA ICE, LLC does not intend to file the Direct Testimony of Ryan Seiders, nor does it intend to present Mr. Seiders as a witness.

Respectfully submitted,  
SPIVEY VALENCIANO, PLLC  
McAllister Plaza – Suite 130  
9601 McAllister Freeway  
San Antonio, Texas 78216  
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**ATTORNEYS FOR PALOMA ICE, LLC  
AND RYAN SEIDERS**



**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been served on applicant on October 27, 2020, and filed in the records of Docket 50545, in compliance with PUC Procedural Rule 22.74 and the applicable Orders in the above-captioned proceedings.

  
\_\_\_\_\_  
Soledad M. Valenciano



Control Number: 49603



Item Number: 202

Addendum StartPage: 0



**SOAH DOCKET NO. 473-20-0417  
PUC DOCKET NO. 49603**

**APPLICATION OF UPSHUR RURAL § BEFORE THE STATE OFFICE  
ELECTRIC COOPERATIVE §  
CORPORATION TO AMEND ITS §  
CERTIFICATE OF CONVENIENCE § OF  
AND NECESSITY FOR A 138-KV §  
TRANSMISSION LINE IN HARRISON §  
COUNTY (HALLSVILLE - GUM § ADMINISTRATIVE HEARINGS  
SPRINGS) §**

**THIRD JOINT STATUS REPORT**

**NOW COMES** Upshur Rural Electric Cooperative Corporation (URECC) and, together with the Staff (Staff) of the Public Utility Commission of Texas (Commission), would show the following:

**I. BACKGROUND**

On July 31, 2020, URECC, Staff, and certain intervenors filed a Joint Motion to Abate Procedural Schedule, requesting that this case be abated to allow the parties time to pursue settlement discussions. SOAH Order No. 14, signed on August 7, 2020, granted that abatement and set a deadline for parties to file a report regarding the status of this case. SOAH Order No. 15, signed on August 7, 2020, continued the abatement and set a schedule for filing periodic status reports until settlement documents are filed.

**II. STATUS REPORT**

URECC continues to make substantial progress towards resolving this proceeding by settlement. Consistent with SOAH Order No. 15, URECC and Staff will file status reports every 30 days until settlement documents are filed.<sup>1</sup>

<sup>1</sup> URECC and Staff note that November 27, 2020 is the day after Thanksgiving and the Commission may be closed. Thus, unless settlement documents are filed earlier, URECC and Staff will plan to file its next status report by November 30, 2020

*202*

Respectfully Submitted,

/s/ Jacob Lawler

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**ATTORNEYS FOR UPSHUR RURAL ELECTRIC COOPERATIVE CORPORATION**

**CERTIFICATE OF SERVICE**

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the above and foregoing document was provided to all parties of record via electronic mail on October 27, 2020 in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ Jacob Lawler

Jacob J. Lawler



Control Number: 51416



Item Number: 7

Addendum StartPage: 0

DOCKET NO. 51416



APPLICATION OF ENTERGY TEXAS,  
INC. TO AMEND ITS DISTRIBUTION  
COST RECOVERY FACTOR

§  
§  
§

PUBLIC UTILITY COMMISSION  
OF TEXAS

**ORDER NO. 1  
REQUIRING COMMISSION STAFF COMMENTS AND  
RECOMMENDATIONS, ENTERING PROTECTIVE ORDER,  
AND ADDRESSING OTHER PROCEDURAL MATTERS**

**I. Application**

This Order addresses the October 22, 2020, application of Entergy Texas, Inc. (ETI) to amend its distribution cost recovery factor (DCRF). ETI seeks approval to amend its DCRF rider, adjusted for load growth, designed to collect \$26,300,000 annually or \$6,800,000 in incremental annual DCRF revenue beyond ETI’s currently effective DCRF. ETI proposed an effective date of no later than 145 days after the filing date of its application, or March 16, 2021.

**II. Jurisdiction**

The Commission has jurisdiction over this application with regard to retail customers within ETI’s service area outside a municipality under PURA<sup>1</sup> §§ 32.001(a) and 36.210(a) and retail customers that are inside municipalities that have surrendered jurisdiction to the Commission under PURA § 33.002(b). ETI states that it is simultaneously filing this application with the Commission and all Texas municipal authorities that have retained jurisdiction over ETI’s rates.

**III. Notice**

ETI proposes to provide notice, by serving a copy of its application, on all parties to its last comprehensive base-rate proceeding, Docket No. 48371<sup>2</sup> as well as ETI’s last DCRF proceeding, Docket No. 50714,<sup>3</sup> no later than the day after ETI files the application with the Commission. ETI also proposes to provide proof of the above notice upon completion.

<sup>1</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

<sup>2</sup> *Entergy Texas, Inc ' s Statement of Intent and Application for Authority to Change Rates*, Docket No 48371, Order (Dec. 20,2018).

<sup>3</sup> *Application of Entergy Texas, Inc to Establish its Distribution Cost Recovery Factor*, Docket No. 50714, Order (Oct. 16, 2020).

#### IV. Commission Staff Comments and Recommendations

By November 23, 2020, Commission Staff must file comments and recommendations regarding ETI's application and notice and propose a procedural schedule for processing.

#### V. Protective Order

ETI included a proposed protective order for use in this proceeding. The administrative law judge instead enters the Commission's standard protective order, attached to this Order, for use in this proceeding to remain in effect unless otherwise ordered.

#### VI. Other Procedural Matters

Unless otherwise specified, an original and ten copies of documents relating to this proceeding must be filed with the Commission's filing clerk in accordance with 16 Texas Administration Code (TAC) § 22.71. **In light of the Commission's Second Order entered in Docket No. 50664 (Commission's Second Order), this requirement will be considered satisfied if pleadings are filed with the Commission through the Interchange on the Commission's website as long as the Commission's Second Order is in effect.**<sup>4</sup>

Service of pleadings is typically governed by 16 TAC § 22.74. However, as long as the Commission's Second Order remains in effect, all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer. It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange at: <https://interchange.puc.texas.gov>.

All parties are required to provide their current addresses, **e-mail addresses**, telephone and fax numbers, if available, to all other parties and to the Commission by filing and serving all parties with such information. Each party must provide the Commission and all parties with updated address, **e-mail address**, telephone, and fax information if such information changes. The **e-mail addresses**, telephone and fax numbers will be included on the service list for the convenience of the parties. Parties are responsible for updating their own service lists to reflect changed information and the addition of any other parties.

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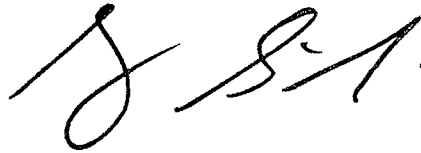
<sup>4</sup> See *Issues Related the State of Disaster for Coronavirus Disease 2019*, Docket No. 50664, Second Order Suspending Rules (July 16, 2020).

**VII. Ex Parte Communications**

*Ex parte* communications with the administrative law judge (ALJ) are prohibited under 16 TAC § 22.3(b)(2). Parties must communicate with the ALJ only through written documents filed with the Commission's filing clerk and served on all parties. Questions concerning this Order, or any other order, must be submitted in writing, filed with the Commission, and served on all parties of record.

**Signed at Austin, Texas the 27th day of October 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**GREGORY R. SIEMANKOWSKI  
ADMINISTRATIVE LAW JUDGE**



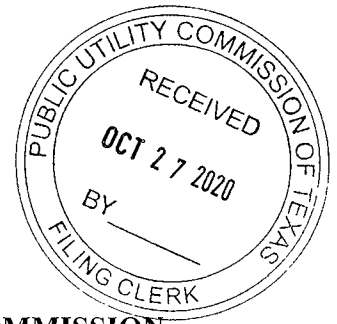


Control Number: 51100



Item Number: 61

Addendum StartPage: 0



**SOAH DOCKET NO. 473-21-0043  
PUC DOCKET NO. 51100**

**APPLICATION OF THE CITY OF § PUBLIC UTILITY COMMISSION  
LUBBOCK, ACTING BY AND §  
THROUGH LUBBOCK POWER & § OF TEXAS  
LIGHT, TO ESTABLISH INITIAL §  
WHOLESALE TRANSMISSION RATES §  
AND TARIFFS §**

**COMMISSION STAFF’S THIRTEENTH REQUEST FOR INFORMATION  
TO LUBBOCK POWER & LIGHT  
QUESTION NOS. STAFF 13-1 THROUGH STAFF 13-3**

Pursuant to 16 Texas Administrative Code (TAC) § 22.144 of the Commission’s Procedural Rules, the Staff of the Public Utility Commission of Texas (Staff) requests Lubbock Power & Light (LP&L) by and through its attorney of record, provide the following information and answer the following question(s) under oath. The question(s) shall be answered in sufficient detail to fully present all of the relevant facts, within the time limit provided by the Presiding Officer or within 20 days, if the Presiding Officer has not provided a time limit. Please copy the question immediately above the answer to each question. These question(s) are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer. State the name of the witness in this cause who will sponsor the answer to the question and can vouch for the truth of the answer.

Provide responses to the Requests for Information by filing with the Commission solely through the Interchange on the Commission’s website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer pursuant to the Order Suspending Rules in Docket No. 50664.

Dated: October 27, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS  
LEGAL DIVISION**

Rachelle Nicolette Robles  
Division Director

Heath D. Armstrong  
Managing Attorney

/s/ Megan Chalifoux\_\_\_\_\_

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**SOAH DOCKET NO. 473-21-0043  
PUC DOCKET NO. 51100**

**CERTIFICATE OF SERVICE**

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on October 27, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Megan Chalifoux\_\_\_\_\_

Megan Chalifoux

**SOAH DOCKET NO. 473-21-0043  
PUC DOCKET NO. 51100**

<b>APPLICATION OF THE CITY OF</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>LUBBOCK, ACTING BY AND</b>	<b>§</b>	
<b>THROUGH LUBBOCK POWER &amp;</b>	<b>§</b>	<b>OF TEXAS</b>
<b>LIGHT, TO ESTABLISH INITIAL</b>	<b>§</b>	
<b>WHOLESALE TRANSMISION RATES</b>	<b>§</b>	
<b>AND TARIFFS</b>	<b>§</b>	

**COMMISSION STAFF’S THIRTEENTH REQUEST FOR INFORMATION  
TO LUBBOCK POWER & LIGHT  
QUESTION NOS. STAFF 13-1 THROUGH STAFF 13-3**

**DEFINITIONS**

- 1) “Lubbock Power & Light,” “Company,” “LP&L,” or “you” refers to Lubbock Power and Light and any person acting or purporting to act on its behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons.
  
- 2) “Document” includes any written, recorded, or graphic matter, however produced or reproduced, including but not limited to correspondence, telegrams, contracts, agreements, notes in any form, memoranda, diaries, voice recording tapes, microfilms, pictures, computer media, work papers, calendars, minutes of meetings or other writings or graphic matter, including copies containing marginal notes or variations of any of the foregoing, now or previously in your possession. In the event any documents requested by this Request for Information have been transferred beyond the Company’s control, describe the circumstances under which the document was destroyed or transferred and provide an exact citation to the subject document. In the event that documents containing the exact information do not exist, but documents do exist which contain portions of the required information or which contain substantially similar information, then the definition of “documents” shall include the documents which do exist and these documents will be provided.

**SOAH DOCKET NO. 473-21-0043  
PUC DOCKET NO. 51100**

**COMMISSION STAFF'S THIRTEENTH REQUEST FOR INFORMATION  
TO LUBBOCK POWER & LIGHT  
QUESTION NOS. STAFF 13-1 THROUGH STAFF 13-3**

**INSTRUCTIONS**

- 1) Pursuant to 16 TAC § 22.144(c)(2), Staff requests that answers to the requests for information be made under oath.
- 2) Please copy the question immediately above the answer to each question. State the name of the witness in this cause who will sponsor the answer to the question and can vouch for the truth of the answer.
- 3) These questions are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer.
- 4) Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.
- 5) The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.
- 6) If any document is withheld under any claim of privilege, please furnish a list identifying each document for which a privilege is claimed, together with the following information: date, sender, recipients or copies, subject matter of the document, and the basis upon which such privilege is claimed.
- 7) Pursuant to 16 TAC § 22.144(h)(4), if the response to any request is voluminous, please provide a detailed index of the voluminous material.
- 8) Staff requests that each item of information be made available as it is completed, rather than upon completion of all information requested.

**SOAH DOCKET NO. 473-21-0043  
PUC DOCKET NO. 51100**

**COMMISSION STAFF'S THIRTEENTH REQUEST FOR INFORMATION  
TO LUBBOCK POWER & LIGHT  
QUESTION NOS. STAFF 13-1 THROUGH STAFF 13-3**

- Staff 13-1 Please reference the Company's response to Staff 6-1, Attachment 6-1.3, Page 10 of 14. Please explain the purpose of the Rate Adjustment Credit of \$(9,309) listed in the Vinson & Elkins invoice dated October 15, 2020.
- Staff 13-2 Please reference the Company's response to Staff 6-1, Attachment 6-1.4, Page 5 of 9. Please explain the purpose of the "Write\_Off Applied" of \$(12,356.47) listed in the NewGen Strategies & Solutions invoice dated August 19, 2020.
- Staff 13-3 Please reference the Company's response to Staff 6-1, Attachment 6-1.4, Page 5 of 9. Please provide supporting documentation detailing the services in the amount of \$9,262 performed by the subcontractor identified as Thomas A. Ghidossi in the NewGen Strategies & Solutions invoice dated August 19, 2020.



Control Number: 51023



Item Number: 366

Addendum StartPage: 0



# Request to Intervene in PUC Docket No. 51023

The following information must be submitted by the person requesting to intervene in this proceeding. This completed form will be provided to all parties in this docket. **If you DO NOT want to be an intervenor, but still want to file comments, please complete the "Comments" page.**

Mail this completed form and 10 copies to:

Public Utility Commission of Texas  
Central Records  
Attn: Filing Clerk  
1701 N. Congress Ave.  
P.O. Box 13326  
Austin, TX 78711-3326

First Name: Peter Last Name: Eick

Phone Number: 832-766-2986 Fax Number: \_\_\_\_\_

Address, City, State: 23960 Scenic Loop Road, San Antonio, TX 78255

Email Address: peter.eick@gmail.com

**I am requesting to intervene in this proceeding. As an INTERVENOR, I understand the following:**

- I am a party to the case;
- I am required to respond to all discovery requests from other parties in the case;
- If I file testimony, I may be cross-examined in the hearing;
- If I file any documents in the case, I will have to provide a copy of that document to every other party in the case; and
- I acknowledge that I am bound by the Procedural Rules of the Public Utility Commission of Texas (PUC) and the State Office of Administrative Hearings (SOAH).

**Please check one of the following:**

- I own property with a habitable structure located near one or more of the utility's proposed routes for a transmission line.
- One or more of the utility's proposed routes would cross my property.
- Other. Please describe and provide comments. You may attach a separate page, if necessary.

Several of the proposed routes would pass directly through my property and go through land I have plans to build houses on in the future. The paths would go straight through to plots of land that I have already had subdivided for sale and development. We are intending on beginning construction once covid is under control. Please see the attached document continuing this discussion.

Signature of person requesting intervention:

Date: 10/27/2020

Effective: April 8, 2020

*Self*



Continuation of the Landowner Intervention form of Eick, 10/27/2020.

The two plots of land we are going to develop have direct access to Scenic Loop Road in a highly desirable location. Any high-tension powerlines running right through the middle of each property would severely limit our development plans and value of each of the properties. As there are few properties with direct access to Scenic Loop Road, loss of these development sites is a severe financial burden placed on us.

A second point is the original legal description of our property was legally incorrect. During the purchase of our property in 2014, I determined that there were several errors in the original legal description of my property. I corrected this for my new title and I had the property resurveyed and described by registered land surveyor. This description was then filed with the county. Because the prior easement was never used on the incorrectly described property, it no longer applies to the actual description of the property. Specifically, the abstract number for the easement description and other property descriptions were wrong and described a property some distance away from mine.

Third, if you look at page 1715 of volume 7119 for the gas, electric, telephone, and cable tv easement recorded for Scenic Loop Road, you can see that it is stamped by Roy Robin, a Certified Professional Engineer. It is my understanding that a Professional Engineer cannot stamp a legally binding surveying document. This should have been stamped by a Professional Land Surveyor. Had a professional land surveyor worked the project they might have identified that the correct Abstract Number is 1101 and not 905 as listed in that document. This error brings into question the right of legal access to the easement that has not already been exercised.

Fourth, I was told at the initial public discussion meeting (10/3/19) that the pathway for segment 16 was routed over our property on the east side of Scenic Loop Road because there was a "house" on the west side of Scenic Loop Road. The "house" is a mobile home sales office that will be removed once the development is completed according to discussions with the sales department.

Fifth, Scenic Loop Road is a historically quiet area with limited development and a quiet country atmosphere. Putting a large obnoxious power line down Scenic Loop road would destroy the vistas and the sense of place. Segment 16 will cross back and forth over the road twice in less than half a mile or transit. This is a degradation to the quality of life of those that live in the area and own property along Scenic Loop Road to benefit those that are buying property in these subdivisions that receive the benefits but don't have to deal with the costs.

Finally, I do not consider it equitable and fair that my family would be burdened with the loss and take of our property and development plans so a commercial developer could build the subdivisions across the street. The commercial developer is receiving the benefits of a new power grid while we bear the costs in terms of loss of use and access to our property and having to stare at the power poles every day.

For all the reasons listed above we request that any access to our property be denied and the petition rejected.



Control Number: 50480



Item Number: 23

Addendum StartPage: 0



**DOCKET NO. 50480**

**APPLICATION OF CRYSTAL CLEAR § PUBLIC UTILITY COMMISSION**  
**SPECIAL UTILITY DISTRICT AND §**  
**CITY OF SAN MARCOS FOR SALE, § OF TEXAS**  
**TRANSFER, OR MERGER OF §**  
**FACILITIES AND CERTIFICATE §**  
**RIGHTS IN HAYS COUNTY §**

**ORDER NO. 9**  
**APPROVING SALE AND ALLOWING TRANSACTION TO PROCEED**

This Order addresses the application of Crystal Clear Special Utility District (Crystal Clear SUD) and the City of San Marcos (San Marcos) for the sale, transfer, or merger of certificate rights in Hays County. The applicants seek the transfer of a portion of the facilities and service area held by Crystal Clear SUD under water certificate of convenience and necessity (CCN) number 10297 to San Marcos and the amendment of San Marcos’ water CCN number 10298 to include the area previously included in Crystal Clear SUD’s water CCN number 10297. The administrative law judge (ALJ) grants that the sale is approved and the transaction between Crystal Clear SUD and San Marcos may proceed and be consummated.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Applicants**

1. Crystal Clear SUD is a special utility district created under section 59, article XVI of the Texas Constitution.
2. Crystal Clear SUD operates, maintains, and controls facilities for providing retail water service in Hays County under CCN number 10297.
3. Crystal Clear SUD controls a facility that is registered with the Texas Commission on Environmental Quality (TCEQ) under public water system identification number 0940015.
4. San Marcos is a municipality in the state of Texas.
5. San Marcos operates, maintains, and controls facilities for providing retail water service in Hays County under CCN number 10298.

6. San Marcos controls facilities that are registered with the TCEQ under public water system identification number 1050001.

**Application**

7. On January 23, 2020, Crystal Clear SUD and San Marcos filed the application at issue in this proceeding.
8. Applicant's filed supplemental information on March 20 and June 3 and 30, 2020.
9. In the application, the applicants seek approval of the following transaction: (a) San Marcos will acquire a portion of Crystal Clear SUD's facilities and water service area from Crystal Clear SUD's under water CCN number 10297; and (2) the amendment of San Marcos' water CCN number 10298 to include the area previously included in Crystal Clear SUD's water CCN number 10297.
10. The requested area is located approximately two miles south of San Marcos, Texas, and is generally bounded on the north by Purgatory Creek Natural Area and San Marcos' city limits, on the east by Hunter's Hill subdivision and Hunter Road, on the south by Hunter Road and West McCarthy Lane, and on the west by West McCarthy Lane.
11. The requested area comprises approximately 575 acres and 489 current customers.
12. In Order No. 3 filed on April 28, 2020, the ALJ found the application administratively complete.

**Notice**

13. On June 30, 2020, San Marcos filed affidavits attesting that notice was mailed to current customers, neighboring utilities and affected parties on May 29, 2020.
14. On June 30, 2020, San Marcos filed a publisher's affidavit attesting to publication of notice in the *San Marcos Daily Record*, a newspaper of general circulation in Hays County, on June 19 and 26, 2020.
15. In Order No. 7 filed on July 14, 2020, the ALJ deemed the notice sufficient.

**Intervention**

16. On May 21, 2020, Guadalupe Carbajal filed a motion to intervene.

17. In Order No. 5 filed on June 15, 2020 the ALJ granted the intervention.

**Evidentiary Record**

18. On September 25, 2020, the parties filed an agreed motion to admit evidence.

19. In Order No. 8 filed on October 6, 2020, the ALJ admitted the following evidence into the record: (a) application of Crystal Clear SUD and San Marcos for sale, transfer, or merger of facilities and certificate rights in Hays County, including all attachments, filed on January 23, 2020; (b) Commission Staff's recommendation on administrative completeness filed on February 24, 2020; (c) San Marcos' supplemental application information filed on March 20, 2020; (d) Commission Staff's supplemental recommendation on administrative completeness filed on April 24, 2020; (e) Guadalupe Carbajal's motion to intervene filed on May 21, 2020; (f) San Marcos' additional application information filed on June 3, 2020; (g) Commission Staff's corrected notice form and request for extension filed on June 11, 2020; (h) San Marcos' supplemental information filed on June 30, 2020; (i) Commission Staff's recommendation on sufficiency of notice filed on July 13, 2020; and (j) Commission Staff's recommendation on approval of the sale filed on August 28, 2020.

**System Compliance—Texas Water Code (TWC) § 13.301(e)(3)(A); 16 Texas Administrative Code (TAC) §§ 24.227(a), 24.239(h)(3)(A), (h)(5)(I)**

20. San Marcos has not been subject to any unresolved enforcement action by the Commission, TCEQ, the Texas Department of State Health Service, the Office of the Attorney General of Texas, or the Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes.

21. There is no evidence that San Marcos has a history of continuing mismanagement or misuse of revenues as utility service provider.

22. San Marcos demonstrated a compliance status that is adequate for approval of the application.

**Adequacy of Existing Service—TWC § 13.301(c)(1); 16 TAC §§ 24.227(e)(1), (h)(5)(A)**

23. Crystal Clear SUD has a public water system registered with TCEQ under public water system number 0940015.

24. Crystal Clear SUD does not have any unresolved violations associated with public water system number 0940015 listed in the TCEQ database.

**Need for Additional Service—TWC §13.246(c)(2); 16 TAC §§ 24.227(e)(2), 24.239(h)(5)(B)**

25. There are 489 existing connections in the requested area that are receiving water from Crystal Clear SUD's public water system number 0940015 and have an ongoing need for service.
26. The application is to transfer only existing facilities, customers, and service area.
27. There is no evidence in the record indicating a need for additional service.

**Effect of Approving the Transaction and Granting the Amendment—TWC § 13.246(c)(3); 16 TAC §§ 24.227(e)(3), 24.239(h)(5)(C)**

28. Crystal Clear SUD and San Marcos are the only utilities affected by this transfer.
29. Approving the transaction and granting the CCN amendment will obligate San Marcos to provide service to current and future customers in the requested area. Any landowners in the requested area that do not currently receive service from Crystal Clear SUD will need to request service from San Marcos if they require service after the transaction has been completed.
30. There will be no effect on any other retail public utility servicing the proximate area because this transaction does not include any uncertificated area.
31. There will be no effect on the landowners as the area is currently certificated.

**Ability to Serve: Managerial and Technical—TWC §§ 13.241(a), (b), 13.246(c)(4), 13.301(b), (e)(2); 16 TAC §§ 24.227(a), (e)(4), 24.239(h)(2), (h)(5)(D)**

32. San Marcos has a public water system registered with TCEQ under public water system identification number 1050001 and does not have any unresolved violations listed in the TCEQ database.
33. San Marcos has a demonstrated history of successfully providing continuous and adequate retail water service.
34. San Marcos employs TCEQ-licensed operators who are responsible for the operations of its public water system.

35. San Marcos has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the TWC, and the TCEQ's rules.
36. San Marcos has the managerial and technical capability to provide continuous and adequate service to the requested area.

**Ability to Serve: Financial Ability and Stability—TWC §§ 13.241(a), 13.246(c)(6), 13.301(b); 16 TAC §§ 24.11(e), 24.227(a), (e)(6), 24.239(e), (h)(5)(F)**

37. San Marcos has a debt-service coverage ratio that is greater than 1.25, which satisfies the leverage test.
38. San Marcos demonstrated that it has sufficient cash available to cover any projected operations and maintenance shortages in the first five years of operations in the first five years of operations after completion of the transaction, which satisfies the operations test.
39. San Marcos demonstrated the financial capability and stability to provide continuous and adequate service to the requested area.

**Financial Assurance—TWC §§ 13.246(d), 13.301(c); 16 TAC §§ 24.227(f), 24.239(f)**

40. There is no need to require San Marcos to provide a bond or other financial assurance to ensure continuous and adequate service.

**Regionalization or Consolidation—TWC § 13.241(d); 16 TAC § 24.227(b)**

41. Because San Marcos does not need to construct a physically separate system to serve the requested area, consideration of regionalization or consolidation is not required.

**Feasibility of Obtaining Service from Adjacent Retail Public Utility—TWC § 13.246(c)(5); 16 TAC §§ 24.227(e)(5), 24.239(h)(5)(E)**

42. The area being transferred is currently being served by Crystal Clear SUD and there will be no changes to land uses or existing CCN boundaries. Therefore, it is not feasible to obtain service from another utility.

**Environmental Integrity and Effect on the Land—TWC § 13.246(c)(7), (c)(9); 16 TAC §§ 24.227(e)(7), (e)(9), 24.239(h)(5)(G)**

43. The environmental integrity of the land will not be affected as no additional construction is needed to provide service to the requested area.

44. The requested area will continue to be served by existing facilities and no additional construction is needed. Therefore, there will be no effect on the land.

**Improvement of Service or Lowering Cost to Consumers—TWC § 13.246(c)(8); 16 TAC §§ 24.227(e)(8), 24.239(h)(5)(H)**

45. San Marcos will continue to provide water service to the existing customers in the requested area.
46. San Marcos will charge all of the customers in the requested areas different rates than they were charged before the transaction which will result in lower monthly bills.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

1. The applicants provided notice of the application that complies with TWC §§ 13.246 and 13.301(a)(2), and 16 TAC § 24.239.
2. After consideration of the factors in TWC § 13.246(c), San Marcos demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC § 13.301(b).
3. Crystal Clear SUD and San Marcos demonstrated that the sale of a portion of Crystal Clear SUD's water facilities and the transfer of a portion of the water service area held under CCN number 10297 from Crystal Clear SUD to San Marcos will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public as required by TWC § 13.301(d) and (e).

## **III. Ordering Paragraphs**

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale is approved and the transaction between applicants may proceed and be consummated.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits have been addressed.



3. The applicants have 180 days to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this period, or an extension is not granted, this approval is void and the applicants will have to reapply for approval.
5. The applicants are advised that the requested area will remain under water CCN number 10297 and be held by Crystal Clear SUD until the sale and transfer transaction is complete, in accordance with the Commission's rules.
6. In an effort to finalize this case as soon as possible, the applicants must continue to file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

**Signed at Austin, Texas the 27th day of October, 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**GREGORY R. SIEMANKOWSKI  
ADMINISTRATIVE LAW JUDGE**



Control Number: 51461



Item Number: 2

Addendum StartPage: 0



**DOCKET NO. 51461**

**JOINT APPLICATION OF §  
SOUTHWESTERN BELL TELEPHONE §  
COMPANY DBA AT&T TEXAS AND §  
FUSION COMMUNICATIONS, LLC §  
DBA FUSION COMMUNICATIONS §  
SERVICES, LLC (FKA CBeyond §  
COMMUNICATIONS, LLC) FOR §  
APPROVAL OF AN AMENDMENT AN §  
INTERCONNECTION AGREEMENT §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER NO. 1  
ESTABLISHING PROCEDURES**

On October 26, 2020, Southwestern Bell Telephone dba AT&T Texas and Fusion Communications, LLC dba Fusion Communications Services, LLC (fka Cbeyond Communications, LLC) filed a joint application for approval of an amendment to an interconnection agreement under the terms of FTA Chapter 252,<sup>1</sup> PURA,<sup>2</sup> and Commission rules.

This proceeding will be processed in accordance with 16 Texas Administrative Code (TAC) § 21.101. The Commission will issue a decision regarding this docket no later than November 10, 2020, unless, at any point during the review, the Commission determines that a formal review is necessary.

**I. Number of Copies**

The applicants must file three copies of any subsequent filing regarding this docket with the Commission’s filing clerk. **In light of the Commission’s Second Order entered in Docket No. 50664, this requirement will be considered satisfied if pleadings are filed with the Commission through the Interchange on the Commission’s website until the Governor’s disaster declaration is terminated.**<sup>3</sup>

<sup>1</sup> The Telecommunications Act of 1996, Pub L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 47 U.S.C.A.).

<sup>2</sup> Public Utility Regulatory Act, Tex. Util Code §§ 11.001–66.016.

<sup>3</sup> See *Issues Related the State of Disaster for Coronavirus Disease 2019*, Docket No 50664, Second Order Suspending Rules (Jul. 16, 2020) (requiring pleadings and documents to be filed with the Commission solely through the Interchange).

## II. Sufficiency of the Application

The Commission finds that the joint application submitted by the applicants provides sufficient information to allow the Commission to properly review the interconnection agreement under the FTA. As required by 16 TAC § 21.101, the application included a copy of the amended portions of the interconnection agreement, the applicants' contact information, and affidavits explaining how the agreement is consistent with the public interest, convenience, and necessity, including all relevant requirements of state law.

## III. Notice

The Commission finds that reasonable notice of the filing of the interconnection agreement may be required. Accordingly, the undersigned may require the applicants to provide direct notice or notice via electronic mail. Alternatively, website posting of the filing of the agreement may also be used, provided that all affected persons are made aware of the website.

## IV. Comments

The Commission finds that additional public comment should be allowed before the Commission issues a final decision approving or denying the amendment to the interconnection agreement. Any interested person may file written comments on the joint application by filing three copies of the comments with the Commission's Filing Clerk and serving a copy of the comments on the applicants, within five days of the filing of the joint application. The comments must include the following information:

- (1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- (2) specific allegations that the agreement, or some portion thereof:
  - (a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - (b) is not consistent with the public interest, convenience, and necessity; or
  - (c) is not consistent with other requirements of state law; and
- (3) the specific facts upon which the allegations are based.

**V. Issuance of Approval, Denial, or Further Review of Application**

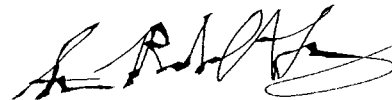
Issuance of a notice of approval, denial, or further review of the application will be made in writing with copies to the applicants and any interested person who filed comments in the proceeding.

**VI. Service**

Service of pleadings is typically governed by 16 TAC § 22.74. **However, in light of the Commission's Order entered in Docket No. 50664, which suspended the service requirements found in 16 TAC § 22.74, all parties must file any pleading or document with the Commission solely through the Interchange on the Commission's website and provide notice, by e-mail, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer.** It will be incumbent upon all other parties to obtain a copy of the pleading or document by accessing the Interchange.

**Signed in Austin, Texas the 27<sup>th</sup> day of October 2020.**

**PUBLIC UTILITY COMMISSION OF TEXAS**



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**STEVEN LEARY  
ADMINISTRATIVE LAW JUDGE**



Control Number: 50944



Item Number: 556

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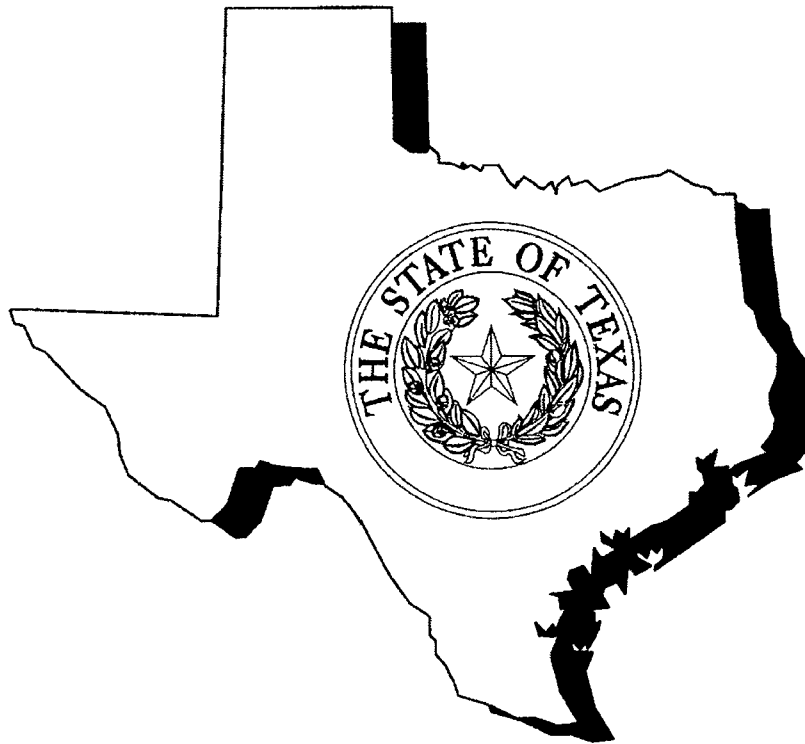


SOAH DOCKET NO. 473-20-4709.WS  
PUC DOCKET NO. 50944

APPLICATION OF MONARCH  
UTILITIES I, L.P. FOR AUTHORITY TO  
CHANGE RATES

§  
§  
§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS



REDACTED DIRECT TESTIMONY OF DEBI LOOCKERMAN  
RATE REGULATION DIVISION  
PUBLIC UTILITY COMMISSION OF TEXAS  
OCTOBER 27, 2020

*File*

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## ATTACHMENTS

Attachment DL-1	SW Merger Acquisition Corp & Subs Federal Form 1120 (in part) (Confidential)
Attachment DL-2	Calculation of Consolidated Federal Income Tax Savings (Confidential)
Attachment DL-3	Adjustment to Shared Contract Services – Legal Expenses
Attachment DL-4	Application Schedule IV-1 Affiliated Expenses by NARUC Account
Attachment DL 5	Monarch’s response to Staff Request for Information No. 5-18(e)
Attachment DL-6	Application Schedules II-E 2 and II-E 2.1
Attachment DL-7	Monarch’s 2019 Class A Annual Reports Extensions Filed
Attachment DL-8	Resume
Attachment DL-9	List of Previous Testimony
Attachment DL-10	Workpapers



1 **I. PROFESSIONAL QUALIFICATIONS**

2 **Q. Please state your name and business address.**

3 A. Debi Loockerman, Public Utility Commission of Texas, 1701 N. Congress Avenue,  
4 Austin, Texas 78711-3326.

5  
6 **Q. By whom are you currently employed and in what capacity?**

7 A. I am employed by the Public Utility Commission of Texas (Commission) as a Director of  
8 Rates in the Financial Analysis section of the Rate Regulation Division.

9  
10 **Q. What are your principal responsibilities?**

11 A. My responsibilities include managing the accounting and financial team that processes  
12 water and sewer applications. I also analyze rate applications and annual reports, prepare  
13 written and oral testimony for contested cases, make recommendations on regulatory  
14 issues, and participate in rulemaking and form-creation projects.

15  
16 **Q. Please state your educational background and professional experience.**

17 A. I received a Bachelor of Business Administration degree with a major in Accounting  
18 from the University of Texas at Austin in 1984. I have worked in water and sewer rate  
19 regulation for over 25 years in Texas. I am a Certified Public Accountant licensed to  
20 practice in the State of Texas. I have accounting experience in public practice, industry,  
21 and state government. Attachment DL-8 is a copy of my resume.

22  
23 **Q. Have you previously testified before the Commission?**

24 A. Yes. Attachment DL-9 is a list of my previous testimonies.

25  
26 **Q. On whose behalf are you testifying?**

27 A. I am testifying on behalf of the Staff of the Public Utility Commission of Texas (Staff).  
28

1 **II. PURPOSE AND SCOPE OF TESTIMONY**

2 **Q. What is the purpose of your testimony in this proceeding?**

3 A. The purpose of my testimony is to present Staff's recommendations on adjustments to  
4 federal income tax for consolidated income tax savings, legal expenses, purchased water  
5 pass-through expenses, and miscellaneous expenses regarding Monarch Utilities I, L.P  
6 (Monarch) request to change its water and wastewater rates in this proceeding. My  
7 testimony also includes a recommendation on Monarch's proposed pass-through clauses  
8 and treatment of pass-through expenses.  
9

10 **Q. What is the scope of your review?**

11 A. My review encompasses an analysis of the Monarch's application (Application) including  
12 pre-filed direct testimony, and certain responses by Monarch to Requests for Information  
13 (RFIs).  
14

15 **Q. Which issues contained in the Preliminary Order issued by the Commission does**  
16 **your testimony generally address?**

17 A. In my testimony, I will address the following issues, some of them in part, identified in  
18 the Preliminary Order filed September 24, 2020.

- 19 • Issue No. 7. Did the utility seeking the rate increase file its annual report  
20 as required by TWC §13.136 and 16 TAC § 24.129?
- 21 • Issue No. 17. What are the reasonable and necessary allowable expenses  
22 for water service and sewer service under 16 TAC §24.41(b)?
- 23 • Issue No. 27. Has the utility made any payments to affiliates for any  
24 expense item? If so, please address the following items.
  - 25 a. Is the payment for each expense item reasonable and necessary?
  - 26 b. What were the costs to affiliates of each item or class of items in  
27 question?

1 c. Is the price to the utility for each item or class of items no higher  
2 than prices charged by the supplying affiliate to its other affiliates  
3 or division or unaffiliated entities for the same item or items?

4 d. If the payment to the utility is for an allocated expense, is the  
5 method used to allocate costs attributable to the utility and the  
6 utility's affiliates appropriate to ensure just and reasonable rates?

7 • Issue No. 28. Are any requested expenses not allowed under 16 Texas  
8 Administrative Code (TAC) § 24.41(b)(2)?

9 • Issue No. 37. Is the utility seeking inclusion of construction work in  
10 progress? If so, what is the amount sought and for what facilities?  
11 Additionally, has the utility proven that the inclusion is necessary to the  
12 financial integrity of the utility and that major projects under construction  
13 have been efficiently and prudently planned and managed as required by  
14 16 TAC § 24.41(c)(4)?

15 • Issue No. 60. Has the utility requested to include costs in its pass-through  
16 rates for an entity for which it has also requested to recover costs through  
17 its base rates? If so, please identify the entity, the amount of costs, and  
18 what products or services the costs cover.

19 • Issue No. 61. Do the utility's proposed pass-through rates include only the  
20 actual costs charged to the utility?

21 • Issue No. 62. Do the proposed pass-through rates exclude any charges that  
22 are included in the utility's requested cost of service in this docket?

23 • Issue No. 63. Does the utility's pass-through provision in its tariffs  
24 conform to Commission rules and is it appropriately worded?  
25

1       **Q.     What standards did you apply in addressing the reasonableness of Monarch's**  
2       **requested revenue requirement?**

3       A.     I applied the following standards:

- 4             •    TWC § 13.183(a), which states:

5               (a)    In fixing the rates for water and sewer services, the  
6                    regulatory authority shall fix its overall revenues at a level  
7                    that will:

8                    (1)    permit the utility a reasonable opportunity to earn a  
9                        reasonable return on its invested capital used and  
10                        useful in rendering service to the public over and  
11                        above its reasonable and necessary operating  
12                        expenses; and

13                   (2)    preserve the financial integrity of the utility. In  
14                        establishing an electric utility's rates, the regulatory  
15                        authority shall establish the utility's overall  
16                        revenues at an amount that will permit the utility a  
17                        reasonable opportunity to earn a reasonable return  
18                        on the utility's invested capital used and useful in  
19                        providing service to the public in excess of the  
20                        utility's reasonable and necessary operating  
21                        expenses.

- 22             •    TWC § 13.184(c), which states:

23               (c)    In any proceeding involving any proposed change of rates,  
24                    the burden of proof shall be on the utility to show that the  
25                    proposed change, if proposed by the utility, or that the  
26                    existing rate, if it is proposed to reduce the rate, is just and  
27                    reasonable.

- 28             •    TWC § 13.185, which states in part:

29               (e)    Payment to affiliated interests for costs of any services, or  
30                    any property, right or thing, or for interest expense may not  
31                    be allowed either as capital cost or as expense except to the  
32                    extent that the regulatory authority finds that payment to be  
33                    reasonable and necessary. A finding of reasonableness and  
34                    necessity must include specific statements setting forth the  
35                    cost to the affiliate of each item or class of items in  
36                    question and a finding that the price to the utility is no  
37                    higher than prices charged by the supplying affiliate to its

- 1 other affiliates or divisions for the same item or items, or to  
2 unaffiliated persons or corporations.
- 3 (f) If the utility is a member of an affiliated group that is  
4 eligible to file a consolidated income tax return and if it is  
5 advantageous to the utility to do so, income taxes shall be  
6 computed as though a consolidated return had been filed  
7 and the utility had realized its fair share of the savings  
8 resulting from the consolidated return, unless it is shown to  
9 the satisfaction of the regulatory authority that it was  
10 reasonable to choose not to consolidate returns.
- 11 (h) The regulatory authority may not include for ratemaking  
12 purposes:
- 13 (1) legislative advocacy expenses, whether made  
14 directly or indirectly, including legislative advocacy  
15 expenses included in trade association dues;
- 16 (2) costs of processing a refund or credit under this  
17 subchapter; or
- 18 (3) any expenditure found by the regulatory authority to  
19 be unreasonable, unnecessary, or not in the public  
20 interest, including executive salaries, advertising  
21 expenses, legal expenses, and civil penalties or  
22 fines.
- 23 • 16 TAC § 24.41, which states in part:
- 24 (a) **Components of cost of service.** Rates are based upon a  
25 utility's cost of rendering service. The two components of  
26 cost of service are allowable expenses and return on rate  
27 base.
- 28 (b) **Allowable expenses.** Only those expenses that are  
29 reasonable and necessary to provide service to the  
30 ratepayers may be included in allowable expenses. In  
31 computing a utility's allowable expenses, only the utility's  
32 test year expenses as adjusted for known and measurable  
33 changes will be considered. A change in rates must be  
34 based on a test year as defined in § 24.3(37) of this title,  
35 relating to Definitions of Terms. Payments to affiliated  
36 interests for costs of service, or any property, right, or  
37 thing, or for interest expense are not allowed as an expense  
38 for cost of service except as provided in TWC § 13.185(e).
- 39 • 16 TAC § 24.25(b)(2)(A)(vii) which states:
- 40 The commission, or regulatory authority, as appropriate, may  
41 approve the following minor changes to utility tariffs:

1 (vii) implementation or modification of a pass-through provision  
2 calculation in a tariff, as provided in subparagraphs (B)-(F) of this  
3 paragraph, which is necessary for the correct recovery of the actual  
4 charges from pass-through entities, including line loss.

- 5 • TWC § 13.185(f) which states, in part:

6 If the utility is a member of an affiliated group that is eligible to  
7 file a consolidated income tax return and if it is advantageous to  
8 the utility to do so, income taxes shall be computed as though a  
9 consolidated return had been filed and the utility had realized its  
10 fair share of the savings resulting from the consolidated return,  
11 unless it is shown to the satisfaction of the regulatory authority that  
12 it was reasonable to choose not to consolidate returns.  
13

14 **Q. If you do not address an issue or position in your testimony, should that be**  
15 **interpreted as Staff supporting Monarch's position on that issue?**

16 A. No.  
17

18 **Q. Have you prepared any attachments to your testimony?**

19 A. I have prepared Attachments DL-1 through DL-10.  
20

21 **Q. Were these attachments prepared by you or under your supervision?**

22 A. Yes.  
23

24 **III. CONSOLIDATED TAX SAVINGS ADJUSTMENT**

25 **Q. Is Monarch a member of an affiliate group eligible to file a consolidated tax return?**

26 A. Yes.  
27

28 **Q. Please summarize Monarch's position.**

29 A. In its Application and testimony, Monarch did not address the requirement of TWC  
30 § 13.185(f), and Monarch did not compute federal income tax expense as though a  
31 consolidated tax return had been filed.

1 Q. Did Monarch show that it was reasonable not to file a consolidated tax return or  
2 compute federal income tax expense as though a consolidated tax return had been  
3 filed?

4 A. No.

6 Q. How is Monarch's taxable income, as an entity, determined and reported?

7 A. Monarch Utilities, Inc. (MUI), a taxable corporation, owns 99.9 percent of Monarch.<sup>1</sup>  
8 MUI's taxable income is combined in the consolidated [REDACTED]

9 [REDACTED]

10

11 Q. Please describe the payment of federal income taxes on Monarch's taxable income.

12 A. [REDACTED]

13 [REDACTED]

14

15 Q. What amount of corporate federal income tax did SW Merger pay? Please explain.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21

22 Q. What was the amount of MUI's taxable income that it contributed to the  
23 consolidated return?

24 A. MUI's reportable taxable income that it contributed to the consolidated [REDACTED]

[REDACTED]

<sup>1</sup> Application at 000519, Direct Testimony of Victoria R. Shupak (July 15, 2020) (Shupak Direct).

<sup>2</sup> Application at 001076, Shupak Direct, Schedule II-E-3.23 (confidential); Attachment DL-1 (confidential).

<sup>3</sup> *Id*

<sup>4</sup> *Id*

1 **Q. Did SW Merger's consolidated tax return produce tax savings? Please explain.**

2 A. Yes. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

6 Therefore, a consolidated return produced tax savings that must be shared.

8 **Q. Do you recommend adjustments to the federal income tax expense allowed in Monarch's cost of service?**

10 A. Yes. I recommend a reduction to the federal income tax expense, as calculated by Staff  
11 Witness Maxine Gilford, in the amount of \$253,122, for shared federal income tax  
12 savings as a result of the savings produced by consolidating MUI's income into SW  
13 Merger's federal income tax return. I also recommend a reduction to federal income  
14 taxes of \$1,099. Monarch added this amount to the total calculation of federal income tax  
15 for meals, entertainment and club dues. Since these expenses are not part of Monarch's  
16 return and Monarch provided no support to show that the expenses are just, reasonable  
17 and necessary to provide utility service, no adjustment to federal income tax is  
18 appropriate. My last adjustment to federal income tax expense is the reversal of apparent  
19 errors of \$27,000 and \$16 in Monarch's calculated federal income tax on Schedule II-E-  
20 3, column (f) of the Application. Staff Witness Gilford included these adjustments in  
21 Attachment MG-1, Staff Schedule V.

23 **Q. How did you calculate MUI's fair share of the tax savings resulting from the consolidation?**

25 A. I based my calculations on the certain portions of SW Merger's federal income tax return  
26 shown in Attachment DL-1. I calculated MUI's percentage of taxable income in relation  
27 to all entities contributing taxable income to the consolidated return. [REDACTED]



1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] results in my  
5 recommended fair-share of savings equal to \$253,122. The mechanics of my calculations  
6 are included in Attachment DL-2.  
7

8 **IV. SHARED CONTRACT SERVICES – LEGAL EXPENSES**

9 **Q. What did Monarch claim for shared Contract Services – Legal Expenses?**

10 A. Monarch claimed total shared Contract Services–Legal Expenses of \$61,082.<sup>5</sup>  
11

12 **Q. What adjustment do you recommend to Contract Services–Legal Expense?**

13 A. As shown on Attachment DL-3, I recommend a reduction to Contract Services–Legal  
14 (“Legal”) Expense of \$58,828. In preparing my recommendation, I analyzed the invoices  
15 provided by Monarch. The Legal Expenses included \$30,581<sup>6</sup> incurred to process  
16 Docket No. 50055, *Application of SWWC Utilities, Inc. for a minor Tariff Change to*  
17 *Implement Federal Tax Change Credit Rider*. The filing was made in response to the  
18 Commission’s order for water utilities to adjust current rates for the reduced federal tax  
19 rate that resulted from the Tax Cuts and Jobs Act of 2017.<sup>7</sup> The cost is non-recurring;  
20 therefore, I recommend its removal from Legal Expense. If the cost of service set in this  
21 proceeding includes non-recurring expenses, future rates based on the cost of service will  
22 recover the same non-recurring expense. Therefore, Monarch will recover the non-  
23 recurring expense in every future year until the next rate case completed.

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<sup>5</sup> Application at 001280, Direct Testimony of Brian Bahr, WP/ II-D-1.1. (July 15, 2020) (Bahr Direct).

<sup>6</sup> Attachment DL-3; Attachment DL-10, Monarch’s Response to OPUC’s Second RFIs, Attachment OPUC 2-7a at 1-100 (Oct. 2, 2020).

<sup>7</sup> Project No. 47945, Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies, Order (Jan. 25, 2018).

1 I further recommend removing from Legal Expenses the \$8,951 cost<sup>8</sup> for  
2 processing Docket No. 49242, *Application for a Pass Through Gallonage Charge*.<sup>9</sup>  
3 These costs are also non-recurring. Docket No. 49242 became contested because  
4 Monarch requested an increase in the gallonage rate for its pass-through fees from zero to  
5 \$0.69 per 1,000 gallons.<sup>10</sup> The requested change in pass-through fees represented  
6 combined fees charged by approximately 31 entities. However, a portion of these fees,  
7 the Adjusted Rate Case Total Costs of \$1,938,717<sup>11</sup>, was included in the Company's cost  
8 of service in Docket No. 45570, *Application of Monarch Utilities I, L.P. to Change Rates*  
9 *for Water and Sewer Service*.<sup>12</sup> If the Commission approves an appropriate pass-through  
10 mechanism in Docket No. 50944, this legal expense will not recur.

11 I also recommend removing \$2,607<sup>13</sup> in legal expenses associated with trademark  
12 expenses. Trademark expenses are not reasonable or necessary for the provision of water  
13 service. Next, I recommend removing legal fees of \$2,174<sup>14</sup> and \$8,800<sup>15</sup> because  
14 Monarch provided no detailed invoices to support these expenses, and therefore I was not  
15 able to determine the reasonableness and necessity of the expenses. I recommend  
16 removing legal fees of \$1,471<sup>16</sup> related to Project No. 48937, *Rulemaking to Amend*

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<sup>8</sup> Attachment DL-3; Attachment DL-10, Monarch's Response to OPUC's Second RFIs, Attachment OPUC 2-7a at 1-100 (Oct. 2, 2020)

<sup>9</sup> *Application for a Pass Through Gallonage Charge*, Docket No 49242 (February 20, 2019)

<sup>10</sup> *Application for a Pass Through Gallonage Charge*, Docket No 49242, Application at 20 TABLE B (February 20, 2019).

<sup>11</sup> *Id* at 19 TABLE A.

<sup>12</sup> *Id*

<sup>13</sup> Attachment DL-3; Attachment DL-10, Monarch's Response to OPUC's Second RFIs, Attachment OPUC 2-7a at 1-100 (Oct. 2, 2020).

<sup>14</sup> Attachment DL-3; Attachment DL-10, Monarch's Response to OPUC's Second RFIs, Attachment OPUC 2-7a at 1-100 (Oct. 2, 2020).

<sup>15</sup> *Id*

<sup>16</sup> *Id*.

1           §24.44 Rate-case Expenses Pursuant to Texas Water Code §13.187 and §13.1871.  
2           Participation in this rulemaking provided no benefits to the customer. I recommend  
3           removing \$406<sup>17</sup> in legal fees related to legislation and lobbying because those expenses  
4           are specifically prohibited by TWC § 13.185(h)(1).

5           Finally, I recommend reducing Legal Expenses by \$3,828 for rate-case expenses  
6           included in the cost of service. Rate-case expenses are typically removed from the cost  
7           of service and recovered through a surcharge over an appropriate number of years. Rate  
8           case expenses are addressed in Staff Witness Maxine Gilford's direct testimony.  
9

10       **V.    AFFILIATED TRANSACTIONS**

11       **Q.    In response to the Preliminary Order, Issue No. 7, has Monarch filed its annual**  
12       **report for 2019 required under 16 TAC § 24.129 due June 1, 2020?**

13       A.    No. Monarch filed three requests to extend the filing date for its 2019 Class A Annual  
14       Report Form. Attachment DL-7 contains copies of the filings for extensions. Monarch's  
15       affiliate SWWC Utilities, Inc. (SWWU) also requested an extension to file its 2019  
16       Annual Report.  
17

18       **Q.    What is the relationship between Monarch and SouthWest Water Company?**

19       A.    Monarch Utilities I L.P. is a Texas limited partnership. Texas Water Services Group,  
20       LLC, is the general partner and owns 0.1% of Monarch Utilities I L.P. MUI is a limited  
21       partner and owns 99.9% of Monarch Utilities I L.P., and is the sole member of Texas  
22       Water Services Group, LLC. New Mexico Utilities, Inc., owns 100% of MUI. SouthWest  
23       Water Company (SouthWest) owns 100% of New Mexico Utilities, Inc. SouthWest owns  
24       100% of other utilities in Texas, including SWWCU and Midway Water Utilities, Inc.  
25       (Midway). Also, within Texas, SouthWest operates an unregulated, wholesale water

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<sup>17</sup> *Id*

1 supply company called Metro-H2O Ltd. (Metro). SouthWest refers to Monarch,  
2 SWWCU, Midway, and Metro, collectively, as the Texas Utilities.<sup>18</sup>  
3

4 **Q. Did Monarch directly incur all costs included in its requested revenue requirement?**

5 A. No. While Monarch directly incurred most of its costs, other costs for services were  
6 allocated or directly billed to Monarch by its affiliated services company. Furthermore,  
7 In January 2019, Monarch's affiliates transferred certain business units to Monarch, and  
8 Monarch allocated expenses from these business units to other affiliates. As a result,  
9 Monarch's Schedule IV-1 contains a positive affiliate transaction total for operating  
10 expenses transferred to it from the parent company, SWWCU, and a negative affiliate  
11 transaction total for Monarch's shared costs of \$6,589,180 that it transferred to other  
12 affiliates.<sup>19</sup>  
13

14 **Q. What did you review regarding affiliated transactions?**

15 A. I reviewed the Application Schedules IV-1 through IV-14, and the Monarch's testimony  
16 addressing affiliated transactions.  
17

18 **Q. Did you review SouthWest Water Company's Cost Allocation Manual ("CAM"),  
19 and what is your recommendation based upon that review?<sup>20</sup>**

20 A. Yes. I reviewed the CAM, and it states on page 1:

21 This CAM has been completed in accordance and conformance with the  
22 National Association of Regulatory Utility Commissioners *Guidelines for*  
23 *Cost Allocations and Affiliate Transactions* ("NARUC Guidelines").  
24 More specifically, the founding principles of this CAM are to a) directly  
25 charge as much of the incurred costs as possible to the entity that procures  
26 any specific service, b) fairly allocate costs that cannot be directly charged  
27 to the Company's subsidiaries and c) ensure that unauthorized  
28

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<sup>18</sup> Application at 000036, Direct testimony of Jeffrey L. McIntyre at 7 (July 15, 2020) (McIntyre Direct);  
Application at 000068, McIntyre Direct, Attachment JLM-3.

<sup>19</sup> Application at 001164, Schedule IV-1 (July 15, 2020); Attachment DL-4.

<sup>20</sup> *Id*

1 subsidization of unregulated activities by regulated activities, and vice  
2 versa, does not occur.  
3 SWWC will periodically evaluate its cost allocation methodologies to  
4 determine if changes to such processes are appropriate, and revise those  
5 methodologies as necessary.  
6

7 The CAM is comprehensive and contains specifics as to direct costs and indirect costs.  
8 Direct costs are billed to the entity that received the benefits of that cost. The indirect  
9 costs are subject either to a specific allocation methodology or a three-factor method  
10 using gross plant, operating expenses, and payroll expenses. The three-factor method  
11 appears reasonable to distribute expenses between affiliates.  
12

13 **Q. What is your recommendation regarding TWC § 13.185(e)?**  
14

15 I recommend that the Commission find that the allocation procedures used by SouthWest  
16 meet the requirement that the price of each class or item payment to affiliated interests of  
17 Monarch is no higher than prices charged by the supplying affiliate to its other affiliates  
18 or divisions for the same item or items.  
19

20 **VI. LOBBYING EXPENSES**

21 **Q. Explain your recommended adjustment for lobbying expenses.**

22 A. In Monarch's response to Staff RFI No. 5-18(e),<sup>21</sup> Monarch indicated that the cost of  
23 service should be reduced by \$3,750 for lobbying fees. Monarch did not file an errata for  
24 this change, and it did not specify the NARUC account for the adjustment. Therefore, I  
25 recommend a total Monarch reduction to NARUC Account No. 675, Miscellaneous  
26 Expense, of \$3,750 in accordance with the requirements of TWC § 13.185(h)(1).  
27

---

<sup>21</sup> Monarch's Response to Commission Staff's Fifth RFI at 20-21 (Oct 8, 2020); Attachment DL-5.

1 **VII. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)**  
2 **REGULATORY ASSESSMENT EXPENSE**

3 **Q. Please explain your recommended adjustment to the TCEQ Assessment.**

4 A. I recommend a \$116,636 reduction to Taxes Other than Income for the TCEQ  
5 Assessment. The TCEQ regulatory assessment is typically collected on each customer  
6 bill as one percent of the total bill. If the TCEQ assessment expense is included in the  
7 cost of service, Monarch double recovers the amount because it also receives those  
8 revenues through the base rate and gallonage charge. Therefore, I recommend removing  
9 the TCEQ Regulatory Assessment from Taxes Other than Income.

10 The regulatory assessment fee is required by the provisions of TWC § 5.701(n)(1) and  
11 (2), which state, in part:

- 12 (1) Each provider of potable water or sewer utility service shall collect  
13 a regulatory assessment from each retail customer as follows:  
14 (A) A public utility as defined in Section 13.002 shall collect  
15 from each retail customer a regulatory assessment equal to  
16 one percent of the charge for retail water or sewer service.  
17 (2) The regulatory assessment may be listed on the customer's bill as a  
18 separate item and shall be collected in addition to other charges for  
19 utility services.  
20

21 **VIII. KNOWN AND MEASURABLE CHANGES**

22 **Q. What adjustments do you recommend to Monarch's requested known and**  
23 **measurable changes?**

24 A. I recommend removing Monarch's proposed known and measurable increases to Ad  
25 Valorem Taxes, TCEQ Assessment Taxes, State Gross Receipts Taxes, and State  
26 Margins taxes. The total recommended adjustment is a reduction of \$586,011.<sup>22</sup>

27 **Q. Why do you recommend this adjustment?**

---

<sup>22</sup> Direct Testimony of Maxine Gilford, Attachment MG-1 (Oct. 27, 2020).

1 A. I recommend this adjustment because Monarch provided no calculations or supporting  
2 schedules to show that the requested known and measurable changes were appropriately  
3 calculated. Therefore, the requested changes are not known or measurable. Monarch  
4 reflects its adjustments in Schedules II-E-2 and II-E-2.1.<sup>23</sup> These schedules show the  
5 adjustments and have a “Reference Schedule” in column (c) that states “no workpaper.”<sup>24</sup>  
6 Monarch did not provide calculations to show how it arrived at its adjustments. Because  
7 of the lack of evidence supporting the requested adjustment, I recommend reducing to  
8 zero Monarch’s proposed known and measurable changes for the expense categories of  
9 Ad Valorem Taxes, TCEQ Assessment Taxes, State Gross Receipts Taxes, and State  
10 Margins taxes.  
11

12 **IX. MONARCH’S SCHEDULE II-A COST OF SERVICE SUMMARY**

13 **Q. Does Monarch’s Cost of Service Summary represent a typical summary presented**  
14 **by other water utilities you have encountered? Please explain.**

15 A. No. Monarch’s Schedule II-A does not include the following information: test year  
16 column, adjustments to test year column, and adjusted test year column. These are  
17 typical columns reflected in most of the cost of service summaries that I have reviewed in  
18 both the water industry and the electric industry. Also, Schedule II-A includes unusual  
19 items on line 6 for “Other Expenses” and line 7, “Gross Up for Revenue Increase.”<sup>25</sup>  
20 These are items that are not typically presented on a summary schedule. The references  
21 in column (b) for these Schedules are II-E-4 and II-A.1.<sup>26</sup>  
22

23 **Q. Is Schedule II-A.1 a typical schedule you would see directly after the summary of**  
24 **the revenue requirement schedule?**

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<sup>23</sup> Application at 000981, Shupak Direct at Schedule II-E-2 (July 15, 2020); Attachment DL-6.

<sup>24</sup> Application at 000982, Shupak Direct at Schedule II-E-2 (July 15, 2020).

<sup>25</sup> Application at 000834, McIntyre Direct at Schedule II-A (July 15, 2020).

<sup>26</sup> *Id*; Attachment DL-6.

1 A. No.

2  
3 **Q. Where would you typically find a schedule such as Schedule II-A.1?**

4 A. Gross-up amounts for expense categories are typically included with the related expense  
5 categories. If a change is required, an errata filing is normally used to correct the  
6 appropriate expense categories.

7  
8 **Q. What do Schedules II-E-4 and II-A.1 address?**

9 A. Schedule II-E-4 addresses amortization of intangibles and amortization of Contributions  
10 in Aid of Construction for customers and developers. Amortization typically appears  
11 along with depreciation expense. Monarch's total amortization amount reduces the cost  
12 of service by \$222,313.<sup>27</sup> Schedule II-A.1 calculates gross-up amounts for state gross  
13 receipts tax, uncollectible bad debts, and Texas margins tax. These adjustments totaling  
14 \$60,031 relate to known and measurable changes. The calculations for such expenses  
15 usually appear in the adjustments for the known and measurable changes within the  
16 operation and maintenance adjustment schedules or with the depreciation schedules.

17  
18 **Q. Do you recommend adjustments related to Schedule II-A.1? Please explain.**

19 A. Yes. I recommend reducing the "Other Gross up for Revenue Increase" amount to zero  
20 because Monarch failed to present a clear picture of known and measurable changes  
21 related to expenses in the Application. In addition, my recommendation includes denial  
22 of the known and measurable changes related to Texas margins tax and the state gross  
23 receipts tax. These two expense categories constitute most of the "Other Gross up for  
24 Revenue Increase" amount of \$60,031.<sup>28</sup>

25  

---

<sup>27</sup> Application at 001077, Bahr Direct, Schedule II-E-4 (July 15, 2020).

<sup>28</sup> Application at 001077, Bahr Direct, Schedule II-E-4 (July 15, 2020).



1 **X. PASS-THROUGH CLAUSES AND EXPENSES**

2 **Q. What is a pass-through clause?**

3 A. A pass-through clause is a rate provision that allows a utility to increase revenues to  
4 cover the actual charges from pass-through entities for costs outside of the utility's  
5 control. Examples of such costs are purchased water, groundwater conservation district  
6 fees, and subsidence district fees. These costs are allowed under 16 TAC  
7 § 24.25(b)(2)(A)(vii).  
8

9 **Q. Please provide a general description of Monarch's proposed water and sewer pass-**  
10 **through clauses.**

11 A. Monarch's proposed treatment of pass-through expenses divides the expenses into two  
12 categories: the current adjusted total expenses included in the cost of service and any  
13 changes to those costs in future years. Monarch's proposed combined pass-through  
14 provisions mean that more than one entity passes through costs to Monarch and that these  
15 costs are combined. Monarch's proposed pass-through equations appear in its proposed  
16 water and sewer tariffs,<sup>29</sup> which set current rates at zero<sup>30</sup> for systems that Monarch  
17 currently has tariffed rates. Monarch's tariff includes the following provision  
18 (Implementation Provision):

19 To implement, all notice requirements must be met. The utility  
20 may begin to charge the new filed WPC on the proposed effective  
21 date in the notice. Implementation of this WPC adjustment  
22 provision shall be governed by 16 TAC § 24.25(b)(2)(F).  
23

---

<sup>29</sup> Application at 00248, 00349, Freitag Direct, Attachment GF-4 (July 15, 2020).

<sup>30</sup> *Id* at 000230.

1 The provision was approved in the previous base rate case.<sup>31</sup> However, the provision  
2 violates 16 TAC § 24.25(b)(2) concerning minor tariff changes, the relevant part of  
3 which states:

4 Except for an affected county or a utility under the original rate  
5 jurisdiction of a municipality, a utility's approved tariff may not be  
6 changed or amended without commission approval.  
7

8 **Q. Do Monarch's current pass-through provision and treatment of pass-through**  
9 **expenses allow for an effective true-up? Please explain.**

10 No. At the time Docket No. 45770 was approved, the pass-through rate was zero because  
11 all of the costs were included in the cost of service. Monarch filed Docket No. 49242 to  
12 implement a pass-through gallonage charge of \$0.69 per thousand gallons to recover the  
13 increased pass-through costs since Docket No. 45770. Staff requested a hearing in  
14 Docket No. 49242 because the calculation of a true-up is impossible when a portion of  
15 the pass-through costs are included in the cost of service. Because the expenses are  
16 recovered along with other variable expenses in the base gallonage rate, no revenue  
17 amount is available to true up the expenses included in the cost of service. The amount  
18 of revenue collected changes as usage changes, but the pass-through expenses included in  
19 the cost of service remain the same.  
20

21 **Q. Indicate whether you agree with Monarch's proposed purchased water pass-**  
22 **through clause and treatment of pass-through costs and provide an explanation.**

23 A. I do not agree. Monarch can over-collect revenues by including the pass-through costs in  
24 the cost of service and requesting compensation for the difference in those same costs.  
25 Because there is no revenue number to true up to, an inability to reconcile the expense  
26 number included in the cost of service exists. The same argument applies to the proposed

---

<sup>31</sup> *Application of Monarch Utilities I, LP for Authority to Change Rates*, Docket No. 45570, Final Order Attachment A (Aug. 27, 2017).

1 sewer pass-through provision and Monarch's inclusion of pass-through expenses in the  
2 cost of service.  
3

4 **Q. What is your recommendation concerning the pass-through expenses?**

5 A. I recommend reducing Purchased Water by \$3,113,992 and reducing Purchased  
6 Wastewater Improvement by \$240,404 to remove the pass-through costs from the cost of  
7 service. I recommend a change to the pass-through clause to recover the total amount of  
8 combined pass-through expenses with an annual true-up provision required by 16 TAC  
9 § 24.25(b)(2)(D), which states in part:

10 A change in the combined pass-through provision may be  
11 implemented only once per year. The utility must file a true-up  
12 report within one month after the end of the true-up period. The  
13 report must reconcile both expenses and revenues related to the  
14 combined pass-through charge for the true-up period.  
15

16 Also, I recommend that the Commission remove the Implementation Provision from  
17 Monarch's proposed tariff.  
18

19 **Q. Does this conclude your testimony?**

20 A. Yes.



Control Number: 51144



Item Number: 17

Addendum StartPage: 0

**DOCKET NO. 51144**

**APPLICATION OF DECLARATION § PUBLIC UTILITY COMMISSION**  
**ENERGY LLC FOR A RETAIL §**  
**ELECTRIC PROVIDER CERTIFICATE § OF TEXAS**



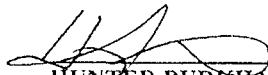
**ORDER NO. 5**  
**ADMITTING EVIDENCE**

This Order addresses Declaration Energy LLC’s motion to admit evidence filed on October 23, 2020. The administrative law judge admits the following evidence into the record of this proceeding:

1. Declaration Energy’s application filed on August 5, 2020
2. Declaration Energy’s confidential supplement to the application filed on August 6, 2020
3. Declaration Energy’s supplement and confidential supplement to the application filed on August 19, 2020;
4. Declaration Energy’s letter of credit confidentially filed in Project No. 37919 on August 28, 2020;
5. Declaration Energy’s supplement and confidential supplement to the application filed September 1, 2020;
6. Declaration Energy’s confidential supplement and supplement to the application filed on September 8, 2020; and
7. Commission Staff’s recommendation on final disposition filed on October 5, 2020.

Signed the 27th day of October 2020.

PUBLIC UTILITY COMMISSION OF TEXAS



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HUNTER BURKHALTER  
CHIEF ADMINISTRATIVE LAW JUDGE

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Control Number: 50944



Item Number: 557

Addendum StartPage: 0

SOAH DOCKET NO. 473-20-4709.WS  
PUC DOCKET NO. 50944



APPLICATION OF MONARCH  
UTILITIES I, L.P. FOR AUTHORITY TO  
CHANGE RATES

§  
§  
§

BEFORE THE STATE OFFICE  
OF  
ADMINISTRATIVE HEARINGS



DIRECT TESTIMONY OF MAXINE GILFORD  
RATE REGULATION DIVISION  
PUBLIC UTILITY COMMISSION OF TEXAS  
OCTOBER 27, 2020

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**ATTACHMENTS**

- Attachment MG-1    Company Total Revenue Requirement
- Attachment MG-2    Résumé

1 **I. STATEMENT OF QUALIFICATIONS**

2 **Q. Please state your name and business address.**

3 A. Maxine Gilford, Public Utility Commission of Texas, 1701 N. Congress Avenue, Austin,  
4 Texas 78711-3326.

5  
6 **Q. By whom are you currently employed, and in what capacity?**

7 A. I am employed by the Public Utility Commission of Texas (Commission) as a Financial  
8 Analyst in the Rate Regulation Division.

9  
10 **Q. What are your principal responsibilities as Financial Analyst for the Commission?**

11 A. My responsibilities include reviewing certificates of convenience and necessity (CCN)  
12 applications and amendments, sale/transfer/merger applications, requests for authority to  
13 change rates, and financial and managerial reviews. I am also responsible for preparing  
14 testimony and exhibits for contested case matters involving investor-owned water and  
15 sewer retail public utilities and assisting with settlement negotiations.

16  
17 **Q. Please state your educational background and professional experience.**

18 A. I received a Bachelor of Business Administration degree with a major in Finance from  
19 the University of Texas at Austin in 1986. I attended the National Association of  
20 Regulated Utility Commissioners' Rate School in October 2019. I have received  
21 extensive one-on-one training from experienced personnel in the Rate Regulation  
22 Division on applications for authority to change rates, rate appeals, and financial and  
23 managerial review of investor-owned and publicly owned utilities. While working for  
24 the Texas Water Development Board for over 17 years, I performed financial reviews of  
25 municipalities, water supply corporations, and investor-owned utilities requesting  
26 financial assistance for infrastructure improvements. I presented my findings to the  
27 Board members at their monthly agenda meetings. Attachment MG-2 is my résumé  
28 detailing my experience.

1 **II. PURPOSE AND SCOPE OF TESTIMONY**

2 **Q. What is the purpose of your testimony in this proceeding?**

3 A. The purpose of my testimony is to present Commission Staff's (Staff) recommendation  
4 for the cost of service and revenue requirements for Monarch Utilities I L.P. (Monarch)  
5 based on the test year ending December 31, 2019. I incorporated the recommendations of  
6 Staff witnesses Debi Loockerman, Emily Sears, Heidi Graham, and Adrian Narvaez-  
7 Canto into my recommendation. I also recommend adjustments to cash working capital  
8 and federal income taxes resulting from the flow-through effects produced by  
9 adjustments made by other Staff witnesses.  
10

11 **Q. What is the scope of your review?**

12 A. I reviewed Monarch's application, including the testimonies filed in this case that pertain  
13 to my recommendations, and the responses to requests for information (RFIs) relating to  
14 the issues addressed in my testimony.  
15

16 **Q. Which issues contained in the Preliminary Order issued by the Commission does  
17 your testimony generally address?**

18 A. In my testimony, I will address the following issues, some of them in part, identified in  
19 the Preliminary Order filed September 24, 2020.

- 20 • Issue No. 9. What revenue requirement will give the utility a reasonable  
21 opportunity to earn a reasonable return on its invested capital used and  
22 useful in providing service to the public in excess of its reasonable and  
23 necessary operating expenses while preserving the utility's financial  
24 integrity as required by Texas Water Code (TWC) § 13.183(a)(1) and (2)  
25 and 16 Texas Administrative Code (TAC) § 24.43(a)?
- 26 • Issue No. 10. Does the revenue requirement properly offset from the  
27 utility's cost of service any revenue that is properly recognized for  
28 ratemaking purposes?

- 1           • Issue No. 13. What is the utility's cost of service for providing water  
2           service based on its test year?
- 3           • Issue No. 14. What is the utility's cost of service for providing sewer  
4           service based on its test year?
- 5           • Issue No. 15. What adjustments, if any, should be made to the utility's proposed  
6           test-year data in accordance with TWC § 13.185(d)(1) and 16 TAC § 24.41(b)?
- 7           • Item No. 38. What is the reasonable and necessary working capital  
8           allowance for the utility under 16 TAC § 24.41(c)(2)(C)?
- 9           • Item No. 57. What are the utility's expenses incurred in this rate  
10          proceeding that are just, reasonable, necessary, and in the public interest  
11          under 16 TAC § 24.44? Does that amount include any prospective rate-  
12          case expenses to be incurred after the Commission's final order? Should  
13          the utility be able to recover its reasonable and necessary rate-case  
14          expenses from ratepayers? If so, how should such expenses, if any, be  
15          recovered by the utility?

17          **Q. What regulatory standards did you rely upon in your review of Monarch's**  
18          **application?**

19          A. I based my analysis on the standards set forth in TWC §13.185. This statute addresses  
20          the components of invested capital and net income and states, in part:

- 21                 (a) Unless alternate methodologies are adopted as provided in Sections  
22                 13.183(c) and 13.184(a), the components of invested capital and  
23                 net income shall be determined according to the rules stated in this  
24                 section.
- 25                 (d) Net income is the total revenues of the utility less all reasonable  
26                 and necessary expenses as determined by the regulatory authority.  
27                 The regulatory authority shall:
  - 28                         (1) base a utility's expenses on historic test year information  
29                         adjusted for known and measurable changes, as determined  
30                         by utility commission rules; and
  - 31                         (2) determine expenses and revenues in a manner consistent with  
32                         Subsections (e) through (h) of this section.

1 In addition, I am also analyzing Monarch's request under 16 TAC § 24.41, which  
2 provides the basic equation for a utility's cost of rendering service. The Commission rule  
3 states, in part:

- 4 (a) Components of cost of service. Rates are based upon a utility's  
5 cost of rendering service. The two components of cost of service  
6 are allowable expenses and return on rate base.
- 7 (b) Allowable expenses. Only those expenses that are reasonable and  
8 necessary to provide service to the ratepayers may be included in  
9 allowable expenses. In computing a utility's allowable expenses,  
10 only the utility's test year expenses as adjusted for known and  
11 measurable changes may be considered. A change in rates must be  
12 based on a test year as defined in §24.3(37) of this title, relating to  
13 Definition of Terms.
- 14 (c) Return on rate base. The return on rate base is the rate of return times rate  
15 base.

16 Further, I am also relying upon the language in 16 TAC § 24.44, which addresses a  
17 utility's recovery of rate-case expenses incurred as a result of filing a rate-change  
18 application. The Commission rule states, in part, the following:

- 19 (a) Recovery of rate-case expenses. A utility may recover rate-case  
20 expenses, including attorney fees, incurred as a result of filing a  
21 rate-change application pursuant to TWC §13.187 or TWC  
22 §13.1871, only if the expenses are reasonable and necessary.  
23

24 **Q. If you do not address an issue or position in your testimony, should that be**  
25 **interpreted as Staff supporting Monarch's position on that issue?**

26 A. No. The fact that I do not address an issue in my testimony should not be construed as  
27 agreeing, endorsing, or consenting to any position taken by Monarch.  
28

### 29 III. TERMS AND DEFINITIONS

30 **Q. What is meant by the terms "revenue requirement" or "cost of service"?**

31 A. The American Water Works Association's (AWWA's) manual, entitled *Principles of*  
32 *Water Rates, Fees and Charges*, states that "revenue requirements are the summation of  
33 the operation, maintenance, and capital costs that a utility must recover during the time

1 period for which rates will be in place.”<sup>1</sup> I use the terms “revenue requirements” and  
2 “cost of service” synonymously within my testimony because the revenue requirements  
3 should equal the cost of service to make the utility whole. The “net revenue requirement”  
4 is used to determine the fixed rate and gallonage charges needed to pay for the cost of  
5 service that is not paid for by other revenues. Other revenues include a variety of fees  
6 collected by the utility, such as late fees and reconnect fees. The revenue requirement is  
7 reduced by other revenues so that the fixed-rate and gallonage charges do not recover the  
8 same expenses paid for by the other revenues. This results in the net revenue  
9 requirement.  
10

11 **Q. What is the “utility method” of determining the cost of service?**

12 A. The AWWA manual *Principles of Water Rates, Fees and Charges* states the following  
13 regarding the utility-basis (or “utility method”) approach:

14 The utility-basis approach to measuring revenue requirements is  
15 typically mandated for investor-owned water utilities and  
16 mandated or permitted for government-owned utilities in  
17 jurisdictions where the utility is regulated by a utility commission  
18 or other similar regulatory body. The utility-basis approach for  
19 determining revenue requirements consists of O&M expenses,  
20 taxes or transfer payments, depreciation expense, and a “fair”  
21 return on rate base investment.<sup>2</sup>  
22

23 **Q. How is the cost of service determined using the utility method for an investor-owned  
24 utility?**

25 A. The two components of cost of service are allowable expenses and return on invested  
26 capital.<sup>3</sup> The following equation expresses the cost of service under the utility-basis  
27 approach:

---

<sup>1</sup> *MI Principles of Water Rates, Fees and Charges* (6<sup>th</sup> Ed. 2012) at 5.

<sup>2</sup> *Id.* at 12.

<sup>3</sup> 16 TAC § 24.41(a).

1 RR = E + D + T + (RB x ROR), where

2 RR = Revenue Requirement

3 E = Operations and Maintenance Expense

4 D = Depreciation Expense

5 T = Taxes

6 RB = Rate Base

7 ROR = Overall Rate of Return  
8

9 **Q. What is the definition of known and measurable expenses?**

10 A. Known and measurable expenses are defined in the Commission's Standard Class A Rate  
11 Filing Package. Specifically, for an expense to be deemed known and measurable, it  
12 must be verifiable on the record as to amount and certainty of effectuation.<sup>4</sup> The expense  
13 must also be reasonably certain to occur within 12 months of the end of the test year.<sup>5</sup>  
14

15 **Q. What is a test year?**

16 A. A test year is defined under 16 TAC § 24.3(37) as the most recent 12-month period,  
17 beginning on the first day of a calendar or fiscal year quarter, for which operating data for  
18 a retail public utility are available.  
19

20 **Q. What test year did you use to review Monarch's requested revenue requirements?**

21 A. I used Monarch's requested test year ending December 31, 2019.<sup>6</sup>  
22

23 **IV. MONARCH'S REQUESTED COST OF SERVICE**

24 **Q. What cost of service is Monarch requesting?**

25 A. Monarch requests a water cost of service of \$36,276,849 and a sewer cost of service of  
26 \$5,181,507,<sup>7</sup> resulting in a total cost of service of \$41,458,356<sup>8</sup> summarized in Table 1

---

<sup>4</sup> Instructions for Rate/Tariff Change, Class A Water and Sewer Utilities (Sep. 17, 2015).

<sup>5</sup> *Id*

<sup>6</sup> Application at 00073, Direct Testimony of Brian D Bahr at 5 (July 15, 2020) (Bahr Direct).

<sup>7</sup> Application at 000074, Bahr Direct at 6 (July 15, 2020).

1 below.

2 **Table 1 – Requested Company Total Cost of Service**

Account Name	Amount
Total Operating Expenses	\$24,635,380
Depreciation	4,927,504
Taxes Other than Income	1,864,673
Gross up for Other Revenue	60,031
Total Other Expenses	(222,313)
Income Tax Expense	1,541,681
Total Expenses	32,806,956
Return on Invested Capital	8,748,014
<b>TOTAL COST OF SERVICE</b>	<b>41,554,970</b>
Less: Other Revenues	(96,614)
<b>NET COST OF SERVICE</b>	<b>\$41,458,356</b>

3  
4 **Q. What Total Company cost of service do you recommend in this case?**

5 A. I recommend a total cost of service of \$36,890,762 for Monarch. Attachment MG-1  
6 provides the detail for the cost of service and adjustments. My recommendation  
7 incorporates the recommendations of Staff witnesses Heidi Graham and Debi  
8 Loockerman. Heidi Graham recommends adjustments to plant in service, annual and  
9 accumulated depreciation, and Construction Work in Progress. Staff witness Debi  
10 Loockerman recommends adjustments to legal expenses, lobbying expenses, TCEQ  
11 regulatory assessment expense, purchased water, purchased wastewater improvement,  
12 operations and maintenance expenses, taxes other than income, and rate base items.

13  
14 **Q. Please describe your recommended cost of service.**

15 A. My recommended cost of service reflects disallowances for administrative and general  
16 expenses, cash working capital, and taxes. These disallowances are recommended by  
17 Staff witness Debi Loockerman and me.

---

<sup>8</sup> *Id*



1 Attachment MG-1 presents Staff's proposed adjustments to the total revenue  
2 requirement. A series of five schedules presents the revenue requirements as described  
3 below:

- 4 • Schedule I presents the Total Company costs of service. The subsequent  
5 schedules provide details of specific components contained within  
6 Schedule I.
- 7 • Schedule II details the adjustments to operations and maintenance  
8 expense.
- 9 • Schedule III shows the calculation of invested capital.
- 10 • Schedule IV details the Operations and Maintenance Accounts for water,  
11 wastewater, and shared expenses.
- 12 • Schedule IVA details Taxes other than Income.
- 13 • Schedule V details the calculation of normalized federal income tax.

14 Also included in Attachment MG-1 is Schedule VI, which details the recommended  
15 Working Cash Allowance.  
16

17 **V. RECOMMENDED ADJUSTMENTS**

18 **Q. What is working cash allowance or working capital allowance?**

19 A. Working capital allowance represents the money needed to operate the utility between the  
20 time a service is provided to a customer and the time the utility must pay its suppliers and  
21 its employees to provide that service.  
22

23 **Q. Please explain your adjustment to the working cash allowance.**

24 A. I based my recommended working cash allowance on the results of Monarch's lead/lag  
25 study.<sup>9</sup> I recommend a working cash allowance of \$1,145,794, which is a reduction of  
26 \$295,405 to Monarch's requested working cash allowance of \$1,441,199.<sup>10</sup> Attachment

---

<sup>9</sup> Application at 000900, 000902, Bahr Direct, Schedule II-B-7.h(W) and Schedule II-B-7.h(S) (July 15, 2020)

<sup>10</sup> Application at 000898, Bahr Direct, Schedule II-B-7 a-g Working Capital (July 15, 2020)

1 MG-1, which includes Staff Schedule VI, includes my calculations. I recommend the  
2 change to working cash to reflect the flow-through changes from Staff's other  
3 adjustments incorporated in my recommended cost of service. Specifically, I used a  
4 weighted average of Monarch's percentages in its lead/lag study and applied it to Staff's  
5 recommended operations and maintenance expense.  
6

7 **Q. Please explain your adjustment to federal income tax expense.**

8 A. My recommended adjustment results from flow-through changes based on the  
9 adjustments to operating and maintenance expense, other taxes, return, and an adjustment  
10 due to consolidated tax savings. The resulting federal income tax expense is \$1,106,675,  
11 which is a reduction of \$435,006. My calculations appear in Attachment MG-1, Staff  
12 Schedule V.  
13

14 **VI. RATE-CASE EXPENSES**

15 **Q. What is Monarch's total requested rate-case expense?**

16 A. Monarch's total amount of requested rate-case expense is \$45,576.48 as of May 31,  
17 2020.<sup>11</sup>  
18

19 **Q. Do you recommend any adjustments to rate-case expense?**

20 A. I do not recommend any adjustments to Monarch's rate-case expenses as of May 31,  
21 2020. The rate case expenses as of May 31, 2020 are considered reasonable and  
22 necessary in accordance with 16 TAC § 24.44(a).  
23

24 **Q. Please explain your recommendation on Monarch's recovery of rate-case expense.**

25 A. Monarch filed its last rate case in 2016, or approximately 48 months ago. Accordingly,  
26 for purposes of Monarch's recovery of rate-case expenses, I recommend the use of the  
27 following calculation:

---

<sup>11</sup> Application at 000726, Direct Testimony of Lambeth Townsend at 5 (July 15, 2020)

1                   Rate-case expense divided by the number of connections divided by 48 months.  
2                   This calculation produces my recommended monthly customer surcharge amount for  
3                   Monarch's recovery of rate-case expense.  
4

5                   **Q. Does this conclude your direct testimony?**

6                   A. Yes. I reserve the right to supplement this testimony during the proceeding if new  
7                   evidence becomes available.



Control Number: 50812



Item Number: 124

Addendum StartPage: 0



**SOAH DOCKET NO. 473-20-4592  
PUC DOCKET NO. 50812**

<b>APPLICATION OF RAYBURN</b>	<b>§</b>	
<b>COUNTRY ELECTRIC</b>	<b>§</b>	<b>BEFORE THE STATE OFFICE</b>
<b>COOPERATIVE, INC. TO AMEND</b>	<b>§</b>	
<b>ITS CERTIFICATE OF</b>	<b>§</b>	<b>OF</b>
<b>CONVENIENCE AND NECESSITY</b>	<b>§</b>	
<b>FOR THE NEW HOPE 138-KV</b>	<b>§</b>	<b>ADMINISTRATIVE HEARINGS</b>
<b>TRANSMISSION LINE IN COLLIN</b>	<b>§</b>	
<b>COUNTY</b>	<b>§</b>	

**DIRECT TESTIMONY**

**OF**

**MARK D. ANDERSON**

**ON BEHALF OF**

**MCKINNEY LEASED HOUSING ASSOCIATES OWNER I, LLC**

**October 27, 2020**

124

**INDEX TO THE DIRECT TESTIMONY OF  
MARK D. ANDERSON, WITNESS FOR  
MCKINNEY LEASED HOUSING ASSOCIATES OWNER I, LLC**

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III.	ANALYSIS AND RECOMMENDATIONS .....	5
IV.	CONCLUSION.....	10
	AFFIDAVIT.....	11

**LIST OF EXHIBITS**

EXHIBIT MDA-1     Mark D. Anderson Resume

1  
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20

**DIRECT TESTIMONY OF MARK D. ANDERSON**

**I. POSITION AND QUALIFICATIONS**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Mark D. Anderson. My business address is 14995 Boulder Pointe Road, Eden Prairie, Minnesota, 55347.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am currently self-employed.

**Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

A. I am testifying on behalf of MCKINNEY LEASED HOUSING ASSOCIATES OWNER I, LLC (“McKinney Leased Housing”), which is the owner of the Kinwood Apartments, as further described in the testimony of Mr. Neal M. Route.

**Q. WHAT IS YOUR PROFESSIONAL AND EDUCATIONAL BACKGROUND AND EXPERIENCE?**

A. I have a B.S. in Industrial Technology from Moorhead State University, Moorhead, MN. I have 46 years of experience in the energy sector, including transmission and generation development. I previously held the Project Management Professional (“PMP”) certification from the Project Management Institute. This is commonly recognized in the project management profession as recognition that the practitioner has passed a rigorous qualification and examination process. A copy of my resume is included as *Exhibit MDA-1*, which is attached to my testimony.

1 **Q. WHAT EXPERIENCE DO YOU HAVE WITH TRANSMISSION SITING**  
2 **AND CONSTRUCTION?**

3 A. I was employed by Xcel Energy Services Inc, (XES), the service company for Xcel  
4 Energy Inc, holding company system. I was Project Manager for Transmission in  
5 the Project Management Department. Starting with my tenure at XES, I have been  
6 responsible for the construction of approximately 1,000 miles of high and extra  
7 high voltage transmission and substation projects valued at about \$1.5 billion  
8 dollars. I have been employed by transmission Owners, contractors, and consulted  
9 to both. On my largest project, CapX2020 Brookings County to Hampton, which  
10 went from central Minnesota to eastern South Dakota I had overall responsibility  
11 for siting, right of way acquisition, procurement, construction and energization.  
12 This project was designated as a Multi Value Project by the Midcontinent  
13 Independent System Operator, and was authorized for construction with a budget  
14 of \$738.4 million. This project included 250 miles of transmission lines and eleven  
15 new or expanded substations, and spanned an area from near White, SD to near  
16 Hampton, MN. The budget, after energization, was \$662.1 million. I managed a  
17 multi-disciplinary team through many cost benefit decisions in order to derive a  
18 savings of some \$76.3 million.

19



1 **Q. PLEASE DESCRIBE YOUR EXPERIENCE WITH EVALUATING**  
2 **ROUTING FOR TRANSMISSION LINES.**

3 A. I have been involved in hundreds of miles of transmission line projects where I had  
4 direct or supervisory responsibility over routing. I helped develop possible  
5 alternative routes for regulatory approval and supported the justification of those  
6 routes to regulators. My teams were responsible for finding the shortest, most cost-  
7 effective route that also met regulatory requirements and community values,  
8 including landowner inputs.

9 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**  
10 **COMMISSIONS?**

11 A. Yes. I provided testimony before this Commission in Docket Nos. 49523 and  
12 43878, and before the Minnesota Public Utilities Commission in Docket No. E-  
13 002/TL-07-1233. My testimony provided analysis and recommendations regarding  
14 transmission line routing, including structure designs and cost. My  
15 recommendations were adopted in all three of these proceedings.

16 **II. PURPOSE OF DIRECT TESTIMONY**

17 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY IN THIS**  
18 **PROCEEDING?**

19 A. The purpose of my Direct Testimony is to discuss my expert opinion on the  
20 segments and routes proposed by Rayburn Country Electric Cooperative (“REC”)  
21 to construct the New Hope 138-kV transmission line in Collin County, Texas.  
22 Based on my analysis, I agree with REC’s conclusion that route West C is the route  
23 that best meets the routing criteria set forth in PURA § 37.056(c) and 16 Texas  
24 Administrative Code § 25.101(b)(3).

1 **Q. DO YOU OPPOSE ANY ROUTES OR SEGMENTS?**

2 A. Yes, I am opposed to segments W11 and W12, which directly affect the Kinwood  
3 Apartments. These apartments comprise about 200 units that are home to an  
4 estimated 400 tenants. The impact on this densely populated area of the community  
5 is unduly burdensome and should be avoided.

6 **Q. WHAT PRELIMINARY ORDER ISSUES ARE YOU ADDRESSING IN**  
7 **YOUR TESTIMONY?**

8 A. I am addressing the following issues set forth in the Commission's Preliminary  
9 Order:

10 4. Which proposed transmission line route is the best alternative weighing the  
11 factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B)?

12 5. Are there alternative routes or facilities configurations that would have a  
13 less negative impact on landowners? What would be the incremental cost  
14 of those routes?

15 **Q. ARE YOU ADDRESSING THE NEED FOR THE TRANSMISSION LINE?**

16 A. No. I take no position on whether the transmission line is needed. However, I do  
17 understand that the Sister Grove Water Treatment facility is a key driver in the need  
18 analysis.

19 **Q. DO YOU SPONSOR ANY EXHIBITS OR SCHEDULES IN CONNECTION**  
20 **WITH YOUR TESTIMONY?**

21 A. Yes. I sponsor *Exhibit MDA-1*, which is attached to my Direct Testimony.

1 **Q. WERE THIS TESTIMONY AND EXHIBITS PREPARED BY YOU OR**  
2 **UNDER YOUR DIRECTION OR AT YOUR REQUEST?**

3 A. Yes. My testimony and exhibits were prepared by me, under my direction, or at  
4 my request. The information contained in my testimony and exhibit is true and  
5 correct to the best of my knowledge.

6 **III. ANALYSIS AND RECOMMENDATIONS**

7 **Q. ARE YOU FAMILIAR WITH TRANSMISSION LINE ROUTING**  
8 **CRITERIA IN TEXAS?**

9 A. Yes. I have reviewed section 37.056 of the Public Utility Regulatory Act (“PURA”)  
10 and 16 Texas Administrative Code (“TAC”) § 25.101. In addition to my previous  
11 work in providing testimony in Docket Nos. 49523 and 43878, these criteria are  
12 substantially similar to the criteria for transmission projects in Minnesota under  
13 which I have also evaluated projects.

14 **Q. HAVE YOU REVIEWED THE ROUTES PROPOSED BY REC IN THIS**  
15 **PROCEEDING?**

16 A. Yes, I have reviewed the 24 alternative routes described in REC’s application,  
17 amendment to the application, and direct testimonies supporting the application. I  
18 have also reviewed REC’s cost estimates, including right of way estimates, as stated  
19 in REC’s Environmental Assessment, Att-3(R)\_EstimatedCosts-and-  
20 SupportData(Amended).

21 **Q. WHAT ANALYSIS DID YOU PERFORM OF THE PROPOSED ROUTES?**

22 A. My analysis started with a review of REC’s proposed transmission line segments  
23 and how REC assembled those segments into proposed routes. It was apparent to  
24 me early in my analysis that the East routes were all significantly more expensive  
25 and longer than the West routes, which provide a correspondingly greater impact

1 to the community. I then focused on the six lowest cost West routes, including  
 2 REC's Route West C, which I conclude best meets the routing criteria under PURA  
 3 § 37.056 and 16 TAC § 25.101.

4 **Q. WHAT ARE THE SIX LOWEST COST ROUTES PROPOSED BY REC?**

5 A. REC's first Amendment to its application states that that the six lowest cost routes  
 6 are as shown in the following Table 1.

7

**Table 1**

Route	Estimated Cost	Length in miles
West H	\$ 5,367,078.43	4.20
West C	\$ 5,374,938.05	4.20
West I	\$ 6,077,678.98	4.11
West F	\$ 6,110,560.19	4.05
West L	\$ 6,292,663.02	3.35
West E	\$ 6,430,642.02	3.91

1 **Q. PLEASE EXPLAIN YOUR ANALYSIS OF THE SIX LOWEST COST**  
 2 **ROUTES.**

3 I place a high level of importance on the impacts to the community that will be host  
 4 and home to the construction and operation of the transmission line, with a primary  
 5 measure of proximity to habitable structures and type and uses of land directly  
 6 affected by the transmission line.

7 **Q. PLEASE EXPLAIN YOUR ANALYSIS REGARDING THE PROXIMITY**  
 8 **OF THE PROPOSED TRANSMISSION LINE TO HABITABLE**  
 9 **STRUCTURES.**

10 A. A primary measure of impacts to the community and corresponding community  
 11 values is proximity of the proposed new transmission line to habitable structures.  
 12 West H and West C would directly affect 1 and 2 habitable structures respectively.  
 13 The other four low cost alternatives directly affect a much higher number of  
 14 habitable structures, as can be seen in Table 2.

15

**Table 2**

<b>Route</b>	<b>Habitable Structures &lt;300'</b>	<b>ROW Cost (000)</b>
<b>West H</b>	1	\$967
<b>West C</b>	2	\$950
<b>West I</b>	16	\$1,274
<b>West F</b>	18	\$1,307
<b>West L</b>	33	\$2,352
<b>West E</b>	46	\$1,935

1 For example, 10 of the 33 habitable structures on Route West L are on or adjacent  
2 to the Kinwood Apartments property owned by McKinney Leased Housing. As  
3 Mr. Neal M. Route states in his direct testimony, the 10 habitable structures  
4 comprising Kinwood Apartments include a clubhouse and 200 residential units that  
5 are home to approximately 400 tenants. Considering that not all habitable structures  
6 are created equal, I think additional weighting should be given to the number of  
7 residential housing units within those habitable structures. This would increase the  
8 33 habitable structures on Route West L that are within 300 feet of the transmission  
9 line to a more representative number of about 224. This would make Route West  
10 L over 100 times more densely populated than Route West C. Given the high  
11 number of residential housing units directly affected, Routes using Segments W11  
12 and W12 (including Route West L) should therefore not be selected just on this  
13 basis alone.

14 **Q. PLEASE EXPLAIN YOUR ANALYSIS REGARDING THE USE AND**  
15 **TYPE OF LAND CROSSED BY THE PROPOSED TRANSMISSION LINE.**

16 A. Another primary measure of the impact on community values is the use or type of  
17 land being crossed by the transmission line. The price paid for the right of way  
18 (ROW) easements is directly determined by the value of the land it crosses. The  
19 higher the land use, the higher the land cost and correspondingly higher value to  
20 the community. For instance, land in a flood plain is valued lower than land that  
21 can be further developed or is currently occupied by businesses or factories.

1           Table 2 clearly shows the correlation between the estimated costs to obtain  
2           the ROW for each of the routes and the number of habitable structures directly  
3           affected by the proposed route. The two lowest cost routes, West H and West C,  
4           have the two lowest estimated costs for ROW and both also minimize the economic  
5           impact to the community. The estimated ROW cost for Route West L is  
6           approximately 2.5 times higher, which again supports my recommendation that the  
7           Commission should eliminate this route based on extreme adverse community  
8           impacts.

9   **Q.    OF THE SIX LEAST-COST ROUTES, ARE THERE ANY ROUTES THAT**  
10 **SHOULD NOT BE SELECTED?**

11  A.    Yes. Routes West L and West E should not be selected because of the adverse effect  
12        on the high number of habitable structures, some of which also have a high number  
13        of residential housing units within the structures, located within 300 feet and the  
14        extremely high cost of ROW.

15 **Q.    OF THE TWO LOWEST LEAST-COST ROUTES, WHAT IS YOUR**  
16 **JUSTIFICATION FOR RECOMMENDING ROUTE WEST C?**

17  A.    Either of the two lowest least cost routes, Route West H or Route West C, should  
18        be approved, but Route West C is partially located on land owned by the North  
19        Texas Municipal Water District (NTMWD), which is adding the Sister Grove  
20        Water Treatment facility. According to the testimony of REC's Mr. Joseph Nichols,  
21        this facility's electrical load is a key driver for this project. Route West C's Segment  
22        W1 and the north/south portion of W3 are located on land owned by the NTMWD.  
23        Locating portions of the transmission line on NTMWD property will reduce the  
24        impact to the community's other property owners.





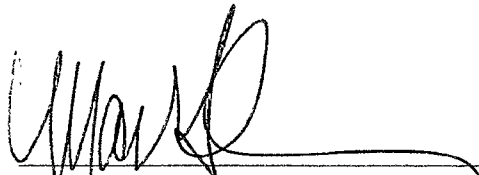
STATE OF MINNESOTA  
COUNTY OF HENNEPIN

**AFFIDAVIT OF MARK D. ANDERSON**

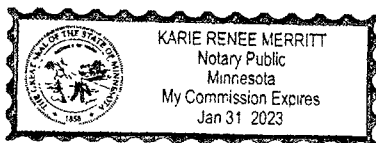
BEFORE ME, the undersigned authority, on this day personally appeared MARK D. ANDERSON, who, having been placed under oath by me, did depose as follows:


1. "My name is Mark D. Anderson. I am of sound mind and capable of making this affidavit. The facts stated herein are true and correct based upon my personal knowledge.
2. I have prepared the foregoing direct testimony and the attached exhibit offered by me are true and correct to the best of my knowledge."

Further affiant sayeth not.

  
\_\_\_\_\_  
Mark D. Anderson

SUBSCRIBED AND SWORN TO BEFORE ME by the said Mark D. Anderson this 27th day of October, 2020.



  
\_\_\_\_\_  
Notary Public, State of MN

My Commission Expires: 1/31/2023

## ***Mark D Anderson, PMP***

**Portfolio/Program/Project/Construction Manager, Expert Witness**

### **SUMMARY**

Senior level executive with extensive project/program management experience in the power sector. Persuasive negotiator with proven project management, problem-solving, decision-making, team building and leadership skills. Demonstrated ability to identify and mitigate risk, negotiate win/win outcomes while maintaining positive relationships, meet scheduled deadlines and manage costs within budgets while enhancing the bottom line. Analytical process oriented perspective used to establish, measure and monitor processes, and provide feedback for continuous process improvement. As an Expert Witness in three appearances in two jurisdictions, my testimony and recommendations were incorporated into the final orders.

### **EXPERIENCE**

#### **MARK ANDERSON MANAGEMENT ASSOCIATES IIc**

**10/2019 to 2/2020**

##### ***Managing Director***

Provided route analysis and expert witness testimony for a client in Docket 49523 at the Public Utilities Commission of Texas

#### **STANLEY CONSULTANTS, INC.**

**11/2017 to 6/2018**

##### ***Construction Manager***

Provided Construction Management services to Lansing Board of Water and Light's West Side Reinforcement Project.

#### **ALDRIDGE ELECTRIC**

**5/2016 to 10/2016**

##### ***Project Sponsor***

Provided Business Development and Project Management services to Transmission Partners, a joint venture between Aldridge, Kiewit and Henkels and McCoy.

#### **WESTWOOD PROFESSIONAL SERVICES**

**12/2014 to 5/2016**

##### ***Project Director***

Developing marketing strategies designed to cater to the transmission sector, as well as mentoring project managers on transmission projects.

- Provided expert witness testimony for transmission line siting and routing in Docket 43878 at the Texas PUC. The PUC adopted my proposed route modifications.
- Developed fast track survey process to accelerate design and ROW acquisition.
- Developed access planning tools based on geo-referenced technology.

#### **GREAT RIVER ENERGY – CapX2020 Brookings to Hampton Project**

**12/2011 to 8/2014**

##### ***Project Manager***

Overall responsibility for pre-construction planning through energization. Project was initially approved for \$738.5 million, now estimated at \$670.7 million. Developed design and schedule optimization processes and implemented unique contracting and risk sharing strategies that resulted in the cost under-run.

#### **MYR TRANSMISSION SERVICES, INC.**

**8/2010 to 12/2011**

##### ***Sr Project Manager***

Managed the KETA project in central Kansas, significantly increased the profit margin from the initial bid and delivered the project on time. Managed multiple subcontractors for foundations, access, and vegetation management.

#### **MARK ANDERSON MANAGEMENT ASSOCIATES IIc**

**8/2009 to 8/2010**

##### ***Managing Director***

## Exhibit MDA-1

Consultant on transmission business development opportunities for a major Midwest privately held construction company, a Denver based design engineering firm, and a national publicly traded electrical construction company.

### **KENNY CONSTRUCTION COMPANY**

**8/2008 to 8/2009**

#### ***Program Manager***

P&L responsibility for a Program Management Office with a mid-west Transmission Utility for a portfolio of high voltage (345kV) transmission line and substation construction projects with an annual capital budget of +\$150 million.

- Establish enhanced processes and controls that provided cash flows to +/- 5% of the monthly projection, while eliminating cost overruns.
- Implemented OSHA 30 hour training for all supervisory and field personnel.
- Optimized the constructability review process to consistently lower estimates by 5-10%.

### **XCEL ENERGY, INC.**

**2005 to 2008**

#### ***Senior Project Manager***

Responsible for large Greenfield HV Transmission Projects

- Managed the SWTU EHV EPC project, about \$150 million value, 150 miles of 345kV and 115kV, plus 3 new substations and modifications to 2 others.
- Negotiated a contract scope reduction to self perform the civil work scope that resulted in \$15 million in savings compared to unit prices in the initial contract.
- Met scheduled ISD's and avoided \$540 million in penalties notwithstanding a 9 month delay in obtaining a key permit.
- Developed a fast track project execution process that shortened permit to construction durations by 1 year.
- Provided expert witness testimony and routing recommendations to the Minnesota Public Utilities Commission, which were adopted by the Commission.

#### ***Manager, Transmission Project Management Office***

Established the framework for a Project Management Office to standardize project management practices and better manage and track a capital budget that was doubling in size every year, better define roles and responsibilities within the Business Unit, select and roll out the Primavera scheduling tool, and implement constructability review processes.

#### ***Sourcing Specialist***

Hired to develop a fixed price lump sum EPC contract template for the transmission business unit.

- Managed the RFP process such that there was less than 1% difference in pricing between the two lowest bidders on a \$150 million work scope after implementing a best and final series of bid clarifications that resulted in \$8 million of price reductions.
- Developed metrics for unknown soils conditions that allowed competitive foundation bids as the geotech report was not yet completed.

### **MARK ANDERSON MANAGEMENT ASSOCIATES**

**2004 to 2005**

#### ***Managing Director***

Managed consulting practice dedicated to risk mitigation for independent power producers.

### **NRG ENERGY, INC**

**1985 to 2004**

A multinational power and energy company that owns and operates a variety of energy-related operations worldwide.

#### ***Director, Contracts***

**2001 to 2004**

Senior commercial negotiator for large construction contracts, and program manager for lender's collateral while in bankruptcy.

- Negotiated the restructuring of a \$600 million EPC contract for a greenfield one thousand megawatt project in Illinois when the prime contractor's parent became insolvent, maintaining original schedule.
- Developed and implemented a storage and preservation program for over \$1 billion worth of combustion turbines and related equipment from terminated construction projects, saving over \$10 Million

Exhibit MDA-1

compared to original maintenance recommendations while maintaining resale value and Lender relationships.

- Closed a stagnant negotiation with project lenders on a greenfield 1,000MW project within a six week period, successfully avoiding project bankruptcy and/or lender foreclosure. Resulted in \$1.8M fee for NRG and waiver of defaults to the credit facility. Managed subsequent completion of construction.

<i>Executive Director, Commercial Portfolio Management, Europe</i>	<b>1999 - 2001</b>
<i>Executive Director, Asset Management, North America</i>	<b>1998 – 1999</b>
<i>Director, Contract Performance</i>	<b>1995 – 1998</b>
<i>Director, Business Development</i>	<b>1992 – 1994</b>
<i>Project Manager</i>	<b>1990 - 1992</b>
<i>Project Engineer</i>	<b>1985 - 1990</b>

**EDUCATION**

**Moorhead State University**  
BS Industrial Technology

**CERTIFICATIONS**

PMI Certified Project Management Professional (Lapsed)  
OSHA 30 Certified